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EXTRAORDINARY

PART II—Section 2

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LOK SABHA

The following Bills were introduced in Lok Sabha on the 28th February, 1958:

*BILL No. 16 OF 1958

A Bill to give effect to the financial proposals of the Central Government for the financial year 1958-59.

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. This Act may be called the Finance Act, 1958.

Short title.

2. (1) Subject to the provisions of sub-sections (2) and (3), for the year beginning on the 1st day of April, 1958,—

Income-tax and super-tax.

(a) income-tax shall be charged at the rates specified in Part I of the First Schedule, and, in the cases to which Paragraphs A, B and C of that Part apply, shall be increased by a surcharge for purposes of the Union and a special surcharge on unearned income, calculated in either case in the manner provided therein; and

XX of 1922.

(b) super-tax shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (hereinafter referred to as the Income-tax Act), be charged at the rates specified in Part II of the First Schedule, and, in the cases to which Paragraphs A, B and C of that Part apply, shall be increased by a surcharge for purposes of the Union and a special surcharge on unearned income, calculated in either case in the manner provided therein.

*The President has, in pursuance of clauses (1) and (3) of article 117 and clause (1) of article 274 of the Constitution of India, recommended to the Lok Sabha, the introduction and consideration of the Bill.

(2) In making any assessment for the year ending on the 31st day of March, 1959,—

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head “Salaries” or any income chargeable under the head “Interest 5 on Securities” or any income from dividends in respect of which by virtue of section 49B of the Income-tax Act he is deemed himself to have paid the income-tax imposed under that Act, the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount 10 bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Finance (No. 2) Act, 1957, on his total income the same proportion as 26 of 1957. the amount of such inclusions bears to his total income;

(b) where the total income of an assessee, not being a 15 company, includes any income chargeable under the head “Salaries” on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Income-tax Act, the super-tax payable by the assessee on that portion of his total income which consists of such inclusion 20 shall be an amount bearing to the total amount of super-tax payable according to the rates applicable under the operation of the Finance (No. 2) Act, 1957, on his total income the same 26 of 1957. proportion as the amount of such inclusion bears to his total income. 25

(3) In cases to which section 17 of the Income-tax Act applies, the tax chargeable shall be determined as provided in that section, and with reference to the rates imposed by sub-section (1).

(4) For the purposes of this section, and of the rates of tax imposed thereby, the expression “total income” means total income 30 as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Income-tax Act, and the expression “earned income” has the meaning assigned to it in clause (6AA) of section 2 of that Act.

Amendment
of section 4.

3. In section 4 of the Income-tax Act,—

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(i) in sub-section (1), for the third proviso, the following proviso shall be substituted, namely:—

“Provided further that if in any year the amount of income accruing or arising without the taxable territories exceeds the amount brought into the taxable territories in 40 that year, there shall not be included in the assessment of the income of that year so much of such excess as does not

exceed four thousand five hundred rupees, and where any part of such excess consists of salaries paid by the Government, a local authority or a corporation established by a Central, State or Provincial Act, the amount of such salaries not to be included as aforesaid shall be further limited to a sum calculated at the rate of one thousand rupees for each month of service in respect of which the salaries are received abroad”;

(ii) in sub-section (3),—

(1) for clause (via), the following clause shall be substituted, namely:—

“(via) subject to such conditions as the Central Government may prescribe,—

(a) passage moneys or the value of any free or concessional passage received by or due to any person, not being a citizen of India, from his employer for himself, his wife and children, in connection with his proceeding on home leave out of India; and

(b) the value of any travel concession or assistance received by or due to any person, being a citizen of India, from his employer for himself, his wife and children, in connection with his proceeding on leave to his home-town or village in India;”;

(2) after clause (xi), the following clause shall be inserted, namely:—

“(xia) any income chargeable under the heads “Interest on Securities”, “Income from Property” and “Income from other sources” of a registered Trade Union within the meaning of the Indian Trade Unions Act, 1926, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen;”;

(3) for the *Explanation* to clause (xiva), the following *Explanation* shall be substituted, namely:—

‘*Explanation*.—“Technician” means a person having specialised knowledge and experience in constructional or manufacturing operations, or in mining or in the generation or distribution of electricity or any other form of power, who is employed in India in a capacity

in which such specialised knowledge and experience are actually utilised;';

(4) in clause (xxi), after the words "Sixth Schedule to the Constitution", the words "or in the Union territory of Manipur" shall be inserted, and shall be deemed always to have been inserted.

Amendment
of section
4A.

4. In section 4A of the Income-tax Act, for clause (c), the following clause shall be substituted, namely:—

"(c) A company is resident in the taxable territories in any year, if— 10

(i) it is an Indian company; or

(ii) during that year the control and management of its affairs is situated wholly in the taxable territories."

Amendment
of section
7.

5. In section 7 of the Income-tax Act,—

(1) in sub-section (1), in the proviso to Explanation 2, for 15 the words "State Government", the words "State Government, a local authority or a corporation established by a Central, State or Provincial Act" shall be substituted and shall be deemed always to have been substituted;

(2) in sub-section (2), for clause (ii), the following clause 20 shall be substituted, namely:—

"(ii) in respect of any allowance in the nature of an entertainment allowance specifically granted to the assessee by his employer—

(a) in the case of an assessee who is in receipt of 25 a salary from the Government, a sum equal to one-fifth of his salary (exclusive of any special allowance, benefit or other perquisites) or five thousand rupees, whichever is less; and

(b) in the case of any other assessee, a sum equal 30 to one-fifth of the salary (exclusive of any special allowance, benefit or other perquisites) or seven thousand five hundred rupees, whichever is less, except in any case where the assessee was not in receipt of such entertainment allowance regularly from his present 35 employer before the year beginning on the first day of April, 1955."

6. In section 9 of the Income-tax Act, after clause (b) of sub-section (4), the following clause shall be inserted and shall be deemed always to have been inserted, namely:—

“(c) taxes levied by a local authority in respect of any property shall be deemed to include service taxes levied by the local authority in respect of the property.”

7. In section 10 of the Income-tax Act,—

Amendment
of section 10.

(1) for clause (vib) of sub-section (2), the following clause shall be substituted, namely:—

“(vib) in respect of a new ship launched or new machinery or plant installed after the 31st day of March, 1954, which is wholly used for the purposes of the business carried on by the assessee, a sum by way of development rebate in respect of the year of launching of the ship or of the installation of the machinery or plant, equivalent to,—

(i) in the case of a ship launched after the 31st day of December, 1957, forty per cent. of the actual cost of the ship to the assessee;

(ii) in the case of a ship launched before the 1st day of January, 1958, and in the case of any machinery or plant, twenty-five per cent. of the actual cost of the ship or machinery or plant to the assessee:

Provided that no allowance under this clause shall be made unless—

(a) the particulars prescribed for the purpose of clause (vi) have been furnished by the assessee in respect of the ship or machinery or plant; and

(b) except where the assessee is a company, being a licensee within the meaning of the Electricity (Supply) Act, 1948, or where the ship has been launched or the machinery or plant has been installed before the 1st day of January, 1958, an amount equal to the allowance due is debited to the profit and loss account of the relevant previous year and credited to a reserve account to be utilised by him during a period of ten years next following only for the acquisition of assets for the purposes of the undertaking or for investment in the undertaking:

Provided further that, in the case of a ship launched or machinery or plant installed after the 31st day of December,

1957, the allowance of development rebate under this clause shall be subject to the condition that the ship or machinery or plant is not sold or otherwise transferred by the assessee to any person other than the Government at any time before the expiry of ten years from the end of the year in which the ship was launched or the machinery or plant was installed. 5

(2) after sub-section (4A), the following sub-section shall be inserted and shall be deemed always to have been inserted, namely:— 10

“(4B) Nothing in clause (vi) or clause (via) of sub-section (2) shall be deemed to authorise the allowance for any previous year of any sum in respect of any building, machinery, plant or furniture sold, discarded, demolished or destroyed in that year.”. 15

Amendment
of section
18.

8. In sub-section (2) of section 18 of the Income-tax Act, for the words “at a rate representing the average of the rates applicable to the estimated total income of the assessee under this head”, the words “at a rate representing the average of the rates in force for the financial year in which he is required to deduct the tax which are applicable to the estimated total income of the assessee under this head” shall be substituted, and shall be deemed always to have been substituted. 20

Amendment
of section
23A.

9. In section 23A of the Income-tax Act, in sub-section (1), for the words “unless he is satisfied that, having regard to the losses incurred by the company in earlier years or to the smallness of the profits made in the previous year, the payment of a dividend or a larger dividend than that declared would be unreasonable”, the following shall be substituted, namely:— 25

“unless he is satisfied— 30

(i) that, having regard to the losses incurred by the company in earlier years or to the smallness of the profits made in the previous year, the payment of a dividend or a larger dividend than that declared would be unreasonable; or

(ii) that the payment of a dividend or a larger dividend than that declared would not have resulted in a benefit to the revenue;”. 35

Amendment
of section
35.

10. In section 35 of the Income-tax Act, after sub-section (10), the following sub-section shall be inserted, namely:—

“(11) Where an allowance by way of development rebate has been made to an assessee in respect of a ship, machinery or plant 40

in any year of assessment under clause (vib) of sub-section (2) of section 10 and subsequently at any time before the expiry of ten years from the end of the year in which the ship was launched or the machinery or plant was installed—

5 (i) the ship, machinery or plant is sold or otherwise transferred by the assessee to any person other than the Government; or

(ii) the assessee utilises the amount credited to the reserve account under that clause for any purpose other than
10 the acquisition of assets for the purposes of the undertaking or for investment in the undertaking;

the development rebate originally allowed shall be deemed to have been wrongly allowed, and the Income-tax Officer may, notwithstanding anything contained in this Act, proceed to re-compute the total income of the assessee for the relevant year as if
15 the re-computation is a rectification of a mistake apparent from the record within the meaning of this section, and the provisions of sub-section (1) shall apply accordingly, the period of four years specified therein being reckoned from the end of the year
20 in which the transfer takes place or the money is so utilised.”.

11. For section 44 of the Income-tax Act, the following section shall be substituted, namely:—

Substitution
of new sec-
tion for sec-
tion 44.

“44. (1) Where any business, profession or vocation carried
25 on by a firm or other association of persons has been discontinued or where a firm or other association of persons is dissolved, the Income-tax Officer shall make an assessment of the total income of the firm or other association of persons as such as if no such discontinuance or dissolution had taken place.

Liability in
case of firm
or associa-
tion dis-
continued
or dis-
solved.

(2) If the Income-tax Officer, the Appellate Assistant Com-
30 missioner or the Appellate Tribunal in the course of any proceedings under this Act in respect of any such firm or other association of persons as is referred to in sub-section (1) is satisfied that the firm or other association is guilty of any of the acts specified in clause (a) or clause (b) or clause (c) of sub-section
35 (1) of section 28, he or it may impose or direct the imposition of a penalty in accordance with the provisions of that section.

(3) Every person who was at the time of such discontinu-
ance or dissolution a partner of the firm or a member of the asso-
ciation, as the case may be, shall be jointly and severally liable
40 for the amount of tax or penalty payable, and all the provisions

of Chapter IV so far as may be, shall apply to any such assessment or imposition of penalty.”.

Amendment
of section
59.

12. In section 59 of the Income-tax Act, after clause (a) of sub-section (2), the following clause shall be inserted, namely:—

“(aa) provide for the determination of the value of any 5
perquisite chargeable to tax under this Act in such manner
and on such basis as appears to the Central Board of Revenue
to be proper and reasonable:

Provided that the rules made in respect of the matters
specified in this clause on the first occasion they are made shall 10
not be subject to the condition of previous publication and may
be given retrospective effect from such date as the Central
Board of Revenue thinks fit;”.

Commence-
ment of
amendments
to Act II
of 1922.

13. (1) The amendment to the Income-tax Act made by sub-
clause (3) of clause (ii) of section 3 shall not apply— 15

(a) to a person to whom the second proviso to clause
(xiva) of sub-section (3) of section 4 of the Income-tax Act
applies if his contract of service has been approved by the
Central Government before the 1st day of March, 1958; or

(b) to any other person who arrives in India before the 1st 20
day of April, 1958.

(2) Save as otherwise provided in sub-section (1) or elsewhere
in this Act, the amendments to the Income-tax Act made by this
Act shall have effect on and from the 1st day of April, 1958.

Amendment
of Act 27 of
1957.

14. In the Wealth-tax Act, 1957, the following amendments shall 25
be made and shall be deemed always to have been made, namely:—

(a) for clause (h) of section 2, the following clause shall
be substituted, namely:—

(h) “company” means a company as defined in section 3
of the Companies Act, 1956, and includes—

30 I of 1956.

(i) a company within the meaning of any law in
force in the State of Jammu and Kashmir relating to
companies; and

(ii) a company incorporated outside India which
has a place of business in India;”;

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(b) in clause (xvi) of sub-section (1), for the words “and
post office national savings certificates”, the words “post office
national savings certificates and post office national plan certi-
ficates” shall be substituted;

(c) in section 6, for the words "In computing the net wealth of an individual", the words "In computing the net wealth of an individual who is not a citizen of India or of an individual" shall be substituted.

5 15. The Indian Tariff Act, 1934 (hereinafter referred to as the Amendment of Act 32 of 1934, Tariff Act), shall be amended in the manner specified in Parts I, II and III of the Second Schedule.

16. (1) In the Indian Tariff (Amendment) Act, 1949, in sections 4 and 5, for the figures "1958", the figures "1959" shall be 10 substituted. Amendment of Act 1 of 1949.

(2) For the removal of doubts it is hereby declared that the continuance by sub-section (1) of the amendments referred to in section 4 of the Indian Tariff (Amendment) Act, 1949, shall be 1 of 1949. subject to the amendments made in the Tariff Act by this Act, and, 15 further, be deemed always to have been subject to the amendments, if any, made in the Tariff Act by any Act of Parliament passed after the commencement of the Indian Tariff (Amendment) Act, 1949.

17. In the First Schedule to the Central Excises and Salt Act, 1944,— Amendment of Act 1 of 1944.

20 (a) in Item No. 9,—

(i) for sub-item I(5) (iii), the following shall be substituted, namely:—

25 "(iii) granule ('rawa') of tobacco capable of passing through a sieve having 16 uniform circular or square apertures per linear inch";

(ii) the *Explanation* to sub-item I(5) shall be omitted;

(b) in Item No. 15, for the entry in the third column, the entry "Twenty-four rupees per ton" shall be substituted.

18. For the year beginning on the 1st day of April, 1958, no duty 1 of 1944. 30 under the Central Excises and Salt Act, 1944, or the Tariff Act shall be levied in respect of salt manufactured in, or imported into, India. Discontinuance of salt duty.

Declaration under the Provisional Collection of Taxes Act, 1931

(16 of 1931)

It is hereby declared that it is expedient in the public interest 35 that the provisions of clauses 15, 16 and 17 of this Bill shall have immediate effect under the Provisional Collection of Taxes Act, 1931.

THE FIRST SCHEDULE

(See section 2)

PART I

*Income-tax and surcharge on income-tax**Paragraph A*

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(i) In the case of every individual who is married and every Hindu undivided family whose total income does not exceed Rs. 20,000 in either case.

Rates of Income-tax

| | Where the individual has no child wholly or mainly dependent on him or where the Hindu undivided family has no minor co-parcener | | Where the individual has one child wholly or mainly dependent on him or where the Hindu undivided family has one minor co-parcener | | Where the individual has more than one child wholly or mainly dependent on him or where the Hindu undivided family has more than one minor co-parcener | | |
|------------------|--|-----------------|--|-----------------|--|-----------------|-----|
| | Rs. | | Rs. | | Rs. | | |
| (1) On the first | 3,000 | of total income | 3,300 | of total income | 3,600 | of total income | Nil |
| (2) On the next | 2,000 | " | 1,700 | " | 1,400 | " | 3% |
| (3) On the next | 2,500 | " | 2,500 | " | 2,500 | " | 6% |
| (4) On the next | 2,500 | " | 2,500 | " | 2,500 | " | 9% |
| (5) On the next | 2,500 | " | 2,500 | " | 2,500 | " | 11% |
| (6) On the next | 2,500 | " | 2,500 | " | 2,500 | " | 14% |
| (7) On the next | 5,000 | " | 5,000 | " | 5,000 | " | 18% |

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(ii) In the case of every individual who is not married and every individual or Hindu undivided family whose total income in either case exceeds Rs. 20,000 and in the case of every unregistered firm or other association of persons, not being a case to which Paragraph B or Paragraph C or Paragraph D of this Part applies :—

| | Rs. | | | | | | |
|------------------------------------|-----|---|---|-------|-----------------|---|-------|
| (1) On the first | . | . | . | 1,000 | of total income | . | Nil |
| (2) On the next | . | . | . | 4,000 | " | . | 3% |
| (3) On the next | . | . | . | 2,500 | " | . | 6% |
| (4) On the next | . | . | . | 2,500 | " | . | 9% |
| (5) On the next | . | . | . | 2,500 | " | . | 11% |
| (6) On the next | . | . | . | 2,500 | " | . | 14% |
| (7) On the next | . | . | . | 5,000 | " | . | 18% |
| (8) On the balance of total income | . | . | . | . | . | . | 25% : |

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Provided that for the purposes of this Paragraph—

(i) no income-tax shall be payable on a total income which does not exceed the limit specified below;

5 (ii) the income-tax payable shall in no case exceed half the amount by which the total income exceeds the said limit;

(iii) the income-tax payable by an individual who is married or a Hindu undivided family whose total income exceeds in either case Rs. 20,000 shall not exceed the aggregate of—

10 (a) the income-tax which would have been payable if the total income had been Rs. 20,000;

(b) half the amount by which the total income exceeds Rs. 20,000;

The limit aforesaid shall be—

15 (i) Rs. 6,000 in the case of every Hindu undivided family which as at the end of the previous year satisfies either of the following conditions, namely:—

(a) that it has at least two members entitled to claim partition who are not less than eighteen years of age; or

20 (b) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family;

(ii) Rs. 3,000 in every other case.

Surcharges on Income-tax

25 The amount of income-tax computed at the rates hereinbefore specified shall be increased by the aggregate of the surcharges calculated as under:—

(a) A surcharge for purposes of the Union equal to the sum of—

30 (i) five per cent. of the amount of income-tax; and

(ii) where the earned income included in the total income exceeds Rs. 1,00,000, five per cent. of the difference between the amount of income-tax which would have been payable on the whole of the earned income included in the total income if such earned income had been the total income and the amount of income-tax payable on a total income of Rs. 1,00,000;

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(b) A special surcharge on unearned income at fifteen per cent. of the difference between the amount of income-tax on the total income and the amount of income-tax on the whole of the earned income, if any, included in the total income if such earned income had been the total income: 5

Provided that—

(i) no surcharge for purposes of the Union shall be payable where the total income does not exceed the limit specified below;

(ii) no special surcharge on unearned income shall be 10 payable in the case of an assessee whose total income does not include any income from dividend on ordinary shares if his total income does not exceed the limit specified below, and where the total income includes any dividends on ordinary shares, such limit shall be increased by Rs. 1,500 15 or the amount of the said dividends, whichever is less:

Provided further that—

(a) where the total income includes any dividends on ordinary shares, the surcharge for purposes of the Union and the special surcharge on unearned income 20 shall not in each case exceed half the amount by which the total income exceeds the respective limits applicable in either case;

(b) the surcharge for purposes of the Union and the special surcharge on unearned income, both 25 together, shall not exceed half the amount by which the total income exceeds the limit specified below;

The limit aforesaid shall be—

(i) Rs. 15,000 in the case of every Hindu undivided family which satisfies as at the end of the previous year either of the 30 following conditions, namely:—

(a) that it has at least two members entitled to claim partition who are not less than eighteen years of age; or

(b) that it has at least two members entitled to claim partition who are not lineally descended one from the other 35 and who are not lineally descended from any other living member of the family;

(ii) Rs. 7,500 in every other case.

Explanation.—For the purposes of this Paragraph, in the case of every Hindu undivided family governed by the *Mitakshara* law, a son shall be deemed to be entitled to claim partition of the coparcenary property against his father, or grand-father notwithstanding any custom to the contrary.

Paragraph B

In the case of every company and local authority,—

Rates of income-tax

On the whole of the total income. ... 30%

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Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge of 5 per cent. thereon.

Paragraph C

(1) In every case in which under the provisions of the Income-tax Act, income-tax is to be charged at the maximum rate,—

Rates of income-tax

On the whole of the total income. ... 25%

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge of 20 per cent. thereon.

(2) In every case in which under the provisions of the Income-tax Act, income-tax is to be deducted at the maximum rate, deduction shall be made from the whole income which is to be subjected to such deduction at the following rates, namely:—

25

| | Rate of income-tax on the whole income | Rate of surcharge on the whole income |
|---------------------------------------|---|--|
| In the case of every company. | 30% | 1·5% |
| In any other case | 25% | 5% |

30

Paragraph D

In the case of every registered firm,—

Rates of income-tax

| | | | |
|----|---|-----|-----|
| | (1) On the first Rs. 40,000 of total income | ... | Nil |
| | (2) On the next Rs. 35,000 of total income | ... | 5% |
| 35 | (3) On the next Rs. 75,000 of total income | ... | 6% |
| | (4) On the balance of total income | ... | 9% |

PART II

*Super-tax and surcharge on super-tax**Paragraph A*

In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which any other Paragraph of this Part applies,—

5

Rates of super-tax

| | | |
|---|-----|-----|
| (1) On the first Rs. 20,000 of total income | ... | Nil |
| (2) On the next Rs. 5,000 of total income | ... | 5% |
| (3) On the next Rs. 5,000 of total income | ... | 15% |
| (4) On the next Rs. 10,000 of total income | ... | 20% |
| (5) On the next Rs. 10,000 of total income | ... | 30% |
| (6) On the next Rs. 10,000 of total income | ... | 35% |
| (7) On the next Rs. 10,000 of total income | ... | 40% |
| (8) On the balance of total income | ... | 45% |

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Surcharges on super-tax

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The amount of super-tax computed at the rates hereinbefore specified shall be increased by the aggregate of the surcharges calculated as under:

(a) A surcharge for purposes of the Union equal to the sum of—

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(i) five per cent. of the amount of super-tax; and

(ii) where the earned income included in the total income exceeds Rs. 1,00,000, five per cent. of the difference between the amount of super-tax which would have been payable on the whole of the earned income included in the total income, if such earned income had been the total income and the amount of super-tax payable on a total income of Rs. 1,00,000;

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(b) A special surcharge on unearned income at fifteen per cent. of the difference between the amount of super-tax on the total income and the amount of super-tax on the whole of the earned income, if any, included in the total income, if such earned income had been the total income.

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Paragraph B

In the case of every local authority,—

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Rates of super-tax

On the whole of the total income. ... 16%

Surcharges on super-tax

The amount of super-tax computed at the rate hereinbefore specified shall be increased by a surcharge of 12½% thereon.

Paragraph C

- 5 In the case of every association of persons being a co-operative society as defined in clause (5B) of section 2 of the Income-tax Act,—

Rates of super-tax

- | | | |
|--|-----|-----|
| (1) On the first Rs. 25,000 of total income. | ... | Nil |
| (2) On the balance of total income. | ... | 16% |

10

Surcharges on super-tax

The amount of super-tax computed at the rates hereinbefore specified shall be increased by a surcharge of 12½% thereon.

Paragraph D

31 of 1956

- 15 In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956,—

Rates of super-tax

On the whole of its profits and gains from life insurance business. ... 11%

In the case of every other company,—

20

Rates of super-tax

On the whole of the total income. 50%:

Provided that,—

- 25 (i) a rebate at the rate of 40 per cent. on so much of the total income as consists of dividends from a subsidiary Indian company and a rebate at the rate of 35 per cent. on the balance of the total income shall be allowed in the case of any company which—

- 30 (a) in respect of its profits liable to tax under the Income-tax Act for the year ending on the 31st day of March, 1959, has made the prescribed arrangements for the declaration and payment within India of the dividends payable out of such profits and for the deduction of super-tax from dividends in accordance with the provisions of sub-section (3D) of section 18 of that Act; and

- 35 (b) is such a company as is referred to in sub-section (9) of section 23A of the Income-tax Act with a total income not exceeding Rs. 25,000;

5 (ii) a rebate at the rate of 40 per cent. on so much of the total income as consists of dividends from a subsidiary Indian company and a rebate at the rate of 30% on the balance of the total income shall be allowed in the case of any company which satisfies condition (a) but not condition (b) of the preceding clause;

10 (iii) a rebate at the rate of 40% on so much of the total income as consists of dividends from a subsidiary Indian company and a rebate at the rate of 20% on the balance of the total income shall be allowed in the case of any company not entitled to a rebate under either of the preceding clauses:

Provided further that,—

15 (i) the amount of the rebate under clause (i) or clause (ii) shall be reduced by the sum, if any, equal to the amount or the aggregate of the amounts, as the case may be, computed as hereunder:—

20 (a) on that part of the aggregate of The whole
the sums arrived at in accordance with amount of
clause (i) of the second proviso to Para- such part.
graph D of Part II of the First Schedule to
the Finance (No. 2) Act, 1957, as has not
26 of 1957. been deemed to have been taken into
account, in accordance with clause (ii) of
the said proviso, for the purpose of reducing
25 the rebate mentioned in clause (i) of the
said proviso to nil.

30 (b) on the amount representing the face value of any bonus shares or the amount
of any bonus issued to its shareholders
during the previous year with a view to
increasing the paid-up capital except to the
extent to which such bonus shares or bonus
have been issued out of premiums received
in cash on the issue of its shares; and

35 (c) in addition, in the case of a company referred to in clause (ii) of the preceding proviso which has distributed to its shareholders during the previous year dividends

in excess of six per cent. of its paid-up capital, not being dividends payable at a fixed rate—

(A) in the case of a company which is not such as is referred to in sub-section (9) of section 23A of the Income-tax Act,— 5

on that part of the said dividends at the rate of
which exceeds 6 per cent. but does not 10%
exceed 10 per cent. of the paid-up
capital;

on that part of the said dividends at the rate of 10
which exceeds 10 per cent. of the paid- 20%
up capital; and

(B) in the case of any other company—

on that part of the said dividends at the rate of
which exceeds 6 per cent. but does not 10% 15
exceed 10 per cent. of the paid-up
capital;

on that part of the said dividends at the rate of
which exceeds 10 per cent. but does not 20%
exceed 18 per cent. of the paid-up 20
capital;

on that part of the said dividends at the rate of
which exceeds 18 per cent. of the paid- 30%
up capital;

(ii) where the sum arrived at in accordance with clause (i) of 25
this proviso exceeds the amount of the rebate arrived at in
accordance with clause (i) or clause (ii), as the case may be, of
the preceding proviso, only so much of the amounts of reduc-
tion mentioned in sub-clauses (a), (b) and (c) of clause (i) of
this proviso as is sufficient, in that order, to reduce the rebate 30
to nil shall be deemed to have been taken into account for the
purpose:

Provided further that the super-tax payable by a company,
the total income of which exceeds rupees twenty-five thousand
shall not exceed the aggregate of—

(a) the super-tax which would have been payable by the 35
company if its total income had been rupees twenty-five
thousand, and

(b) half the amount by which its total income exceeds
rupees twenty-five thousand. 40

Explanation.—For the purposes of this Paragraph—

(i) the expression “paid-up capital” means the paid-up capital (other than capital entitled to a dividend at a fixed rate) of the company as on the first day of the previous year relevant to the assessment for the year ending on the 31st day of March, 5 1959, increased by any premiums received in cash by the company on the issue of its shares, standing to the credit of the share premium account as on the first day of the previous year aforesaid;

(ii) the expression “dividend” shall be deemed to include any 10 distribution included in the expression “dividend” as defined in clause (6A) of section 2 of the Income-tax Act;

(iii) where any portion of the profits and gains of the company is not included in its total income by reason of such portion being exempt from tax under any provision of the Income-tax 15 Act, the “paid-up capital” of the company, the amount distributed as dividends (not being dividends payable at a fixed rate), the amount representing the face value of any bonus shares and the amount of any bonus issued to the share-holders shall each be deemed to be such proportion thereof as the total income of 20 the company for the previous year bears to its total profits and gains for that year other than capital receipts, reduced by such allowances as may be admissible under the Income-tax Act which have not been taken into account by the company in its profit and loss account for that year.

THE SECOND SCHEDULE

(See section 15)

PART I

In the First Schedule to the Tariff Act,—

- 5 (i) in Item No. 47(2), for the existing entry in the fourth column, the entry "Rs. 3 per pound or 50 per cent. *ad valorem*, whichever is higher, *plus* the excise duty for the time being leviable on like articles if produced or manufactured in India, and where such duty is leviable at different rates, the highest
- 10 duty" shall be substituted;
- (ii) in Item No. 63(24), for the existing entries in the fourth and fifth columns, the entries "50 per cent. *ad valorem*" and "40 per cent. *ad valorem*" shall respectively be substituted;
- 15 (iii) in Item No. 63(33), for sub-item (b) in the second column, the following sub-item shall be substituted, namely:—
- "(b) machine screws, including the following types the shank of which has been threaded to within two pitches from the head, namely:—
- (i) mushroom head roofing bolts, all types;
- 20 (ii) hexagonal head bolts, all types;
- (iii) mudguard cycle bolts (with threading other than British Standard cycle threading).".

PART II

In the First Schedule to the Tariff Act, for Items Nos. 28(27), 28(28) and 71(13), the following Items shall respectively be substituted, namely:—

| Item No. | Name of article | Nature of duty | Standard rate of duty | Preferential rate of duty if the article is the produce or manufacture of | | Duration of protective rates of duty |
|----------|--|-----------------------|---|---|----------------------------------|--------------------------------------|
| | | | | The United Kingdom | A British Colony | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 28 (27) | Antibiotics, such as streptomycin, gramicidin, tyrocidine, tyrothricin and preparations which contain only one antibiotic and are free from other therapeutic ingredients, but not including penicillin in bulk, and penicillin and its products specified in Items Nos. 28 (26) and 28 (26A). | Preferential Revenue. | 20 per cent. <i>ad valorem</i> . | 14 per cent. <i>ad valorem</i> . | 14 per cent. <i>ad valorem</i> . | .. |
| 28 (28) | (a) Sulpha drugs and preparations which contain only one sulpha drug and are free from other therapeutic ingredients ; | Preferential Revenue. | 20 per cent. <i>ad valorem</i> . | 14 per cent. <i>ad valorem</i> . | 14 per cent. <i>ad valorem</i> . | .. |
| | (b) Vitamins and vitamin preparations (excluding fish liver oils) free from other therapeutic ingredients. | Preferential Revenue. | 20 per cent. <i>ad valorem</i> . | 14 per cent. <i>ad valorem</i> . | 14 per cent. <i>ad valorem</i> . | .. |
| 71 (13) | (1) Zip fasteners— | | | | | |
| | (a) with metal teeth other than those specified in category (b). | Revenue | 100 per cent. <i>ad valorem</i> or Re. 1 per foot, whichever is higher. | .. | .. | .. |
| | (b) with metal teeth having not more than 9 teeth per inch on either side and in which the total width of the metal portion in the closed state is not less than 8 m.m. | Revenue. | 100 per cent. <i>ad valorem</i> or Re. 1 per foot, whichever is higher. | .. | .. | .. |
| | (c) not otherwise specified. | Revenue | 100 per cent. <i>ad valorem</i> or Re. 1 per foot, whichever is higher. | .. | .. | .. |
| | (2) Parts of zip fasteners— | | | | | |
| | (a) teeth, that is to say, each of the two sides of teeth, whether imported in continuous lengths or cut to size and whether imported in interlocking pairs or not. | Revenue | 100 per cent. <i>ad valorem</i> or 50 naye paise per foot, whichever is higher. | .. | .. | .. |
| | (b) others. | Revenue | 100 per cent. <i>ad valorem</i> . | .. | .. | .. |

PART III

In the Second Schedule to the Tariff Act, in Item No. 9, for the existing entry in the second column, the entry "Mustard oil (including rapeseed oil, jamba oil and radish seed oil)" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The object of this Bill is to give effect to the financial proposals of the Central Government for the next financial year and to provide for certain connected matters. The notes on clauses explain the various provisions contained in the Bill.

J. NEHRU.

NEW DELHI ;

The 28th February, 1958.

Notes on clauses

Clause 2 continues for the current financial year the rates of income-tax and super-tax prescribed by the Finance (No. 2) Act, 1957, subject to one minor modification, namely, abolition of the top-most slab of 30 per cent. in the rate of super-tax payable with reference to excess dividends, in the case of companies which fall within the scope of section 23A of the Income-tax Act.

Clause 3 makes the following amendments in section 4:—

(i) Sub-clause (i) provides that the exemption up to Rs. 4,500 allowable to a person resident in India in respect of his unremitted foreign income shall be further limited in the case of employees of Government, local authority or a statutory corporation, so as not to exceed a sum calculated at the rate of Rs. 1,000 for each month of service in respect of which the salary is drawn abroad.

(ii) Sub-clause (ii) (1) extends the exemption at present available to persons who are not citizens of India in respect of the value of any free or concessional passages on home leave outside India received by them from their employers in India, to similar travel concessions received by citizens of India for going on leave to their home towns or villages in India.

(iii) Sub-clause (ii) (2) seeks to exempt investment income of trade unions.

(iv) Sub-clause (ii) (3) amends the definition of "technician" so as to make it clear that only industrial personnel, in the strict sense of the term, are covered thereby.

(v) Sub-clause (ii) (4) is intended to extend the exemption now enjoyed by members of Scheduled Tribes residing in the tribal areas of Assam to members of the said tribes who may be residing in the Union territory of Manipur.

Clause 4 makes an amendment to clause (c) of section 4A with a view to removing one of the tests laid down therein for determining the residence of a company in the taxable territories, namely, the test of income arising in India exceeding the income arising outside India.

Clause 5 makes the following amendments in section 7:—

(i) Sub-clause (i) extends the exemption at present allowed in respect of death-cum-retirement gratuity benefits received from Government to similar gratuities received from local authorities or corporations established by Central, State or Provincial Acts.

(ii) At present entertainment allowance received by an employee in a case where he has been in receipt of such allowance regularly from his employer before 1st April, 1955, is exempt up to a limit of one-fifth of his salary or Rs. 7,500 whichever is less. Sub-clause (ii) seeks to remove this restriction of receipt of such allowances before 1st April, 1955, in the case of persons in receipt of salaries from the Government, but reduces the limit in their cases to one-fifth of the salary or Rs. 5,000 whichever is less.

Clause 6 amends sub-section (4) of section 9 to make it clear that taxes in respect of property include service taxes.

Clause 7 makes the following amendments:—

(i) Sub-clause (i) increases the development rebate admissible in the case of ships launched after 31st December, 1957, from 25 per cent. to 40 per cent. Further, in the case of ships launched or machinery and plant installed after 31st December, 1957, the grant of the development rebate is made subject to the conditions (i) that the allowance is not utilised by the assessee for distribution of dividends for a period of ten years and (ii) that the asset is also not sold during the said period.

(ii) Sub-clause (ii) seeks to make it clear that the depreciation or additional depreciation allowances admissible under clauses (vi) and (via) of sub-section (2) of section 10 shall not be allowed for the year in which the relevant assets are sold or otherwise disposed of because in those circumstances the necessary relief is secured by the provisions of clause (vii) of sub-section (2) of section 10.

Clause 8 makes a verbal change in sub-section (2) of section 18 in order to make it clear that the rates for deduction of taxes at source from salaries are the rates in force for the financial year in which the deduction of the tax is to be made.

Clause 9 amends section 23A to provide for the non-application of that section to cases where the payment of a dividend or a larger dividend than that declared by a company would not have resulted in a benefit to the revenue.

Clause 10 amends section 35 as a consequence of the amendments proposed in clause 7. This amendment will enable assessments being revised wherever the development rebate becomes inadmissible by reason of the contravention by the assessee of any of the conditions imposed for the purpose of getting the rebate.

Clause 11 recasts section 44 so as to provide a complete machinery for the assessment (including the levy of penalty) of, and the collection of the tax from, firms or other association of persons which have been discontinued or dissolved.

Clause 12 gives power to the Central Board of Revenue to frame rules for determining the value of any perquisite chargeable to tax under the head "salaries".

Clause 13 contains a formal provision with respect to the commencement of the various provisions in this Bill.

Clause 14 makes the following amendments in the Wealth-tax Act, 1957:—

(i) Sub-clause (a) amends the definition of "company" in section 2 to make it clear that companies incorporated in the State of Jammu and Kashmir under the State law are also within the scope of the Act.

(ii) Sub-clause (b) amends section 5 to include post office national plan certificates within the list of exemptions.

(iii) Sub-clause (c) amends section 6 in order to make it clear that in the case of an individual who is not a citizen of India his foreign assets and debts are to be excluded in the computation of his net wealth.

Clause 15, read with the Second Schedule, proposes certain changes in the import and export Tariffs,—

(a) The present statutory rate of import duty of Rs. 3 per pound on art silk yarn and thread is proposed to be changed to Rs. 3 per pound or 50 per cent. *ad valorem* whichever is higher plus the excise duty. This is because the specific rate of duty has been found to be inadequate in the case of costlier varieties of art silk yarn such as nylon and perlon. The proposed change in the pattern of duty will, besides bringing in additional revenue, also act as an incentive for larger imports of cheaper yarn for the same foreign exchange outlay.

(b) The rates of duty of 25 per cent. *ad valorem* (Standard) and 15 per cent. *ad valorem* (Preferential) on iron or steel

barbed or stranded wire and wire rope falling under item 63(24) of the Import Tariff, are proposed to be raised to 50 per cent. *ad valorem* (Standard) and 40 per cent. *ad valorem* (Preferential) in order that these finished products may bear a higher duty than the raw material, steel wire.

(c) Changes, mainly verbal, proposed in the other items are not of much revenue significance.

Clause 16 seeks to maintain for another year the *status quo* in regard to commitments under the General Agreement on Tariffs and Trade.

Clause 17.—Sub-clause (a) seeks to make a clarificatory amendment in sub-item I(5) of item No. 9 relating to unmanufactured tobacco, other than flue cured.

Sub-clause (b) proposes an increase in excise duty on cement from Rs. 20 to Rs. 24 per ton.

Clause 18, like section 6 of the Finance Act, 1957, provides that salt shall be duty-free for another year.

*BILL No. 17 of 1958

A Bill to provide for the levy of gift-tax.

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

5 1. (1) This Act may be called the Gift-tax Act, 1958.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

Short title,
extent and
commence-
ment.

(3) It shall come into force on the 1st day of April, 1958.

2. In this Act, unless the context otherwise requires,—

Definitions.

10 (i) "Appellate Assistant Commissioner" means a person empowered to exercise the powers of the Appellate Assistant Commissioner of Gift-tax under section 9;

(ii) "Appellate Tribunal" means the Appellate Tribunal appointed under section 5A of the Income-tax Act;

15 (iii) "assessee" means a person by whom gift-tax or any other sum of money is payable under this Act;

(iv) "assessment year" means the year for which tax is chargeable under section 3;

4 of 1924. 20 (v) "Board" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924;

(vi) "Commissioner" means a person empowered to exercise the powers of a Commissioner of Gift-tax under section 10;

*The President has, in pursuance of clauses (1) and (3) of article 117 of the Constitution of India, recommended to the Lok Sabha, the introduction and consideration of the Bill.

(vii) "company" means a company as defined in section 3 of the Companies Act, 1956, and includes a foreign company within the meaning of section 591 of that Act; 1 of 1956.

(viii) "donee" means any person who acquires any property under a gift, and, where a gift is made to a trustee for the benefit of another person, includes both the trustee and the beneficiary; 5

(ix) "donor" means any person who makes a gift;

(x) "executor" means an executor or administrator of the estate of a deceased person;

(xi) "firm" has the meaning assigned to it in the Indian Partnership Act, 1932; 9 of 1932.

(xii) "gift" means the transfer by one person to another of any existing movable or immovable property made voluntarily and without consideration, and includes the transfer of any property deemed to be a gift under section 4; 15

(xiii) "Gift-tax Officer" means the Income-tax Officer authorised to perform the functions of a Gift-tax Officer under section 8;

(xiv) "Income-tax Act" means the Indian Income-tax Act, 1922; 11 of 1922. 20

(xv) "Income-tax Officer" means a person appointed to be an Income-tax Officer under the Income-tax Act;

(xvi) "Inspecting Assistant Commissioner of Gift-tax" means a person empowered to exercise the functions of an Inspecting Assistant Commissioner of Gift-tax under section 11; 25

(xvii) "partner" has the meaning assigned to it in the Indian Partnership Act, 1932, and includes a person who being a minor has been admitted to the benefits of partnership;

(xviii) "person" includes a Hindu undivided family;

(xix) "prescribed" means prescribed by rules made under this Act; 30

(xx) "previous year", in relation to any assessment year, means the previous year as defined in clause (11) of section 2 of the Income-tax Act if an assessment were to be made under that Act for that year : 35

Provided that where in the case of an assessee there are different previous years under the Income-tax Act for different sources of income, the previous year for the purposes of this Act shall be that previous year which expired last;

(xxi) "principal officer", used with reference to a company or any association of persons, means—

(a) the secretary, treasurer, manager, managing agent, managing director or agent of the company or association;
5 or

(b) any person connected with the management of the affairs of the company or association upon whom the Gift-tax Officer has served a notice of his intention of treating him as the principal officer thereof;

10 (xxii) "property" includes any interest in property, movable or immovable;

(xxiii) "taxable gifts" means gifts chargeable to Gift-tax under this Act;

15 (xxiv) "transfer of property" means any disposition, conveyance, assignment, settlement, delivery, payment or other alienation of property and, without limiting the generality of the foregoing, includes—

(a) the creation of a trust in property;

20 (b) the grant or creation of any lease, mortgage, charge, easement, licence, power, partnership or interest in property;

(c) the exercise of a power of appointment of property vested in any person, not the owner of the property, to determine its disposition in favour of any person other than
25 the donee of the power; and

(d) any transaction entered into by any person with intent thereby to diminish directly or indirectly the value of his own property and to increase the value of the property of any other person;

30 (xxv) "valuer" means a valuer appointed under section 4 of the Estate Duty Act, 1953.
f 1953.

CHAPTER II

CHARGE OF GIFT-TAX AND GIFTS SUBJECT TO SUCH CHARGE

35 3. Subject to the other provisions contained in this Act, there shall be charged in the manner provided in section 7 for every Charge of gift-tax.

financial year commencing on and from the 1st day of April, 1958, a tax (hereinafter referred to as gift-tax) in respect of the gifts, if any, made by a person during the previous year.

Explanation.—For the purposes of this section, gifts made by the wife of any person out of any gifts made to her by her husband shall be deemed to be gifts made by the husband. 5

Gifts to include certain transfers.

4. For the purposes of this Act,—

(a) where property is transferred for less than the full consideration therefor, the amount by which the market value of the property at the date of the transfer exceeds the value of the consideration shall be deemed to be a gift made by the transferor; 10

(b) where property is transferred for a consideration which in the opinion of the Gift-tax Officer, having regard to the circumstances of the case, has not passed or is not likely to pass either in full or in part from the transferee to the transferor, the amount of the consideration which has not passed or is not likely to pass shall be deemed to be a gift made by the transferor; 15

(c) where there is a release, discharge, surrender, forfeiture or abandonment of any debt, contract or other actionable claim or of any interest in property by any person in favour of another, the value of the release, discharge, surrender, forfeiture or abandonment shall be deemed to be a gift made by the person responsible for the release, discharge, surrender, forfeiture or abandonment; 25

Provided that nothing in this clause shall apply in respect of any debt which is proved to the satisfaction of the Gift-tax Officer to have become irrecoverable;

(d) where a person absolutely entitled to property causes or has caused the same to be vested in whatever manner in himself and any other person jointly and such other person makes an appropriation from or out of the said property, the amount of the appropriation used for the benefit of the person making the appropriation shall be deemed to be a gift made in his favour by the person who causes or has caused the property to be so vested. 30

Exemption in respect of certain gifts.

5. (1) Gift-tax shall not be charged under this Act in respect of gifts made by any person—

(i) of immovable property situate outside the territories to which this Act extends; 40

(ii) of movable property situate outside the said territories unless the person—

(a) being an individual, is a citizen of India; or

5 (b) not being an individual, is resident in the said territories during the previous year in which the gift is made;

(iii) of property in the form of savings certificates issued by the Central Government, which that Government, by notification in the Official Gazette, exempts from gift-tax;

(iv) to the Government or any local authority;

10 (v) to any institution or fund established for a charitable purpose to which the provisions of section 15B of the Income-tax Act apply;

(vi) for any charitable purpose not falling within clause (v), subject to a maximum of rupees one hundred in respect of each
15 such gift;

(vii) (a) being an individual, to any female relative dependent upon him for the necessities of life on the occasion of her marriage;

20 (b) being a Hindu undivided family, to any female member of the family who under any law, order or decree of a court is entitled to maintenance from the joint family property, on the occasion of her marriage;

subject in either case to a maximum of rupees ten thousand in respect of the marriage of each such relative;

25 (viii) to his wife, subject to a maximum of rupees one lakh in the aggregate in one or more previous years;

(ix) of policies of insurance or annuities to his wife or children or to any other person dependent upon him for the necessities of life, subject to a maximum of rupees ten thousand
30 in value in the aggregate in one or more previous years of the benefits in respect of each such donee;

(x) under a will;

(xi) in contemplation of death.

(2) Without prejudice to the provisions contained in sub-section
35 (1), gift-tax shall not be charged under this Act in respect of gifts made by any person during the previous year, subject to a maximum of rupees ten thousand; but such maximum shall have effect as if

it had been reduced to rupees five thousand if the value of the taxable gifts to any one donee during the previous year exceeds rupees three thousand.

Explanation.—For the purposes of this section,—

(a) a Hindu undivided family, firm or other association of 5 persons shall be deemed to be resident in the territories to which this Act extends during any previous year unless, during that year, the control and management of its affairs was situated wholly outside the said territories;

(b) a company shall be deemed to be resident in the territories to which this Act extends during the previous year, if—

(i) it is a company formed and registered under the Companies Act, 1956, or is an existing company within the meaning of that Act; or 1 of 1956.

(ii) during that year, the control and management of 15 that company was situated wholly in the said territories;

(c) “gifts made in contemplation of death” has the same meaning as in section 191 of the Indian Succession Act, 1925. 39 of 1925

Value of
gifts, how
determined.

6. (1) The value of any property other than cash transferred by way of gift shall, subject to the provisions of sub-sections (2) and 20 (3), be estimated to be the price which in the opinion of the Gift-tax Officer it would fetch if sold in the open market on the date on which the gift was made.

(2) Where a person makes a revocable gift, the value of the property gifted shall be the capitalised value of the income from the 25 property gifted during the period for which the gift is not revocable.

(3) Where the value of any property cannot be estimated under sub-section (1) because it is not saleable in the open market, the value shall be determined in the prescribed manner.

Amount of
gift-tax,
how deter-
mined.

7. For the purpose of determining the gift-tax payable by any 30 person for any financial year under this Act—

(a) there shall first be ascertained, the value of all taxable gifts made by the donor during the five previous years immediately preceding the financial year (other than gifts made before the 1st day of April, 1957) and the gift-tax that 35 would have been payable on the total value of all such gifts in accordance with the rates specified in the Schedule if all such gifts had been made during the previous year;

- 5 (b) the gift-tax payable for any financial year in respect of the gifts made during the previous year shall be that amount which bears to the amount of the gift-tax ascertained under clause (a) the same proportion as the total value of the taxable gifts made during the previous year bears to the total value of all the taxable gifts made during the five previous years immediately preceding the financial year.

CHAPTER III

GIFT-TAX AUTHORITIES

- 10 **8. Every Income-tax Officer having jurisdiction or exercising powers as such under the Income-tax Act in respect of any person shall perform the functions of a Gift-tax Officer under this Act in respect of that person.** Gift-tax Officers.

Explanation.—For the purposes of this section, the Income-tax Officer having jurisdiction in relation to a person who has no income assessable to income-tax under the Income-tax Act, means the Income-tax Officer of the area in which that person resides.

- 20 **9. The Board may empower as many persons as it thinks fit to exercise under this Act the functions of an Appellate Assistant Commissioner of Gift-tax, and on being so empowered the Appellate Assistant Commissioners shall perform their functions in respect of such areas or such persons or such classes of persons as the Board may direct, and where such directions have assigned to two or more Appellate Assistant Commissioners the same areas or the same persons or the same classes of persons they shall perform their functions in accordance with such orders as the Board may make for the distribution and allocation of the work to be performed.** Appellate Assistant Commissioners of Gift-tax.

- 30 **10. The Board may empower as many persons as it thinks fit to exercise under this Act the functions of a Commissioner of Gift-tax, and on being so empowered the Commissioners of Gift-tax shall perform their functions in respect of such areas or such persons or such classes of persons as the Board may direct, and where such directions have assigned to two or more Commissioners the same area, or the same persons or the same classes of persons they shall have concurrent jurisdiction subject to such orders, if any, as the Board may make for the distribution and allocation of the work to be performed.** Commissioners of Gift-tax.

- 35 **11. The Commissioner of Gift-tax may empower as many persons as he thinks fit to exercise under this Act the functions of an Inspecting Assistant Commissioner of Gift-tax, and on being so** Inspecting Assistant Commissioners of Gift-tax.

empowered the Inspecting Assistant Commissioners of Gift-tax shall perform their functions in respect of such areas or such persons or such classes of persons as the Commissioner may direct, and where such directions have assigned to two or more Inspecting Assistant Commissioners the same area or the same persons or the same 5 classes of persons they shall perform their functions in accordance with such orders as the Commissioner may make for the distribution and allocation of the work to be performed.

Gift-tax Officers to be subordinate to the Commissioner of Gift-tax and the Inspecting Assistant Commissioner of Gift-tax.

12. The Gift-tax Officers shall be subordinate to the Commissioner of Gift-tax and the Inspecting Assistant Commissioner of Gift-tax 10 within whose jurisdiction they perform their functions.

Gift-tax authorities to follow orders, etc., of the Board.

13. All officers and other persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board:

Provided that no orders, instructions or directions shall be 15 given by the Board so as to interfere with the discretion of the Appellate Assistant Commissioner of Gift-tax in the exercise of his appellate functions.

CHAPTER IV

ASSESSMENT

20

Return of gifts.

14. (1) Every person who during a previous year has made any taxable gifts shall, before the thirtieth day of June of the corresponding assessment year, furnish to the Gift-tax Officer a return in the prescribed form and verified in the prescribed manner.

(2) If the Gift-tax Officer is of opinion that in respect of the 25 gifts made by a person during any previous year he is liable to gift-tax under this Act, then notwithstanding anything contained in sub-section (1), he may serve a notice upon such person requiring him to furnish within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner. 30

(3) The Gift-tax Officer may in his discretion extend the date for the delivery of the return under this section.

15. If any person has not furnished a return within the time allowed under section 14, or having furnished a return under that section, discovers any omission or a wrong statement therein, he may furnish a return or a revised return as the case may be, at any time before the assessment is made.

Return after due date and amendment of return.

16. (1) If the Gift-tax Officer is satisfied without requiring the presence of the assessee or the production by him of any evidence that a return made under section 14 or section 15 is complete, he shall assess the value of the taxable gifts made by the assessee and determine the amount payable by him as gift-tax.

Assessment.

(2) If the Gift-tax Officer is not so satisfied, he shall serve a notice on the assessee either to attend in person at his office on a date to be specified in the notice or to produce or cause to be produced on that date any evidence on which the assessee may rely in support of his return.

(3) The Gift-tax Officer, after hearing such evidence as the person may produce and such other evidence as he may require on any specified points shall, by order in writing, assess the value of taxable gifts made by the assessee and determine the amount payable by him as gift-tax.

(4) For the purpose of making an assessment under this Act, the Gift-tax Officer may serve on any person who has made a return under sub-section (1) of section 14 or section 15, or upon whom a notice has been served under sub-section (2) of section 14, a notice requiring him to produce or cause to be produced on a date specified in the notice such accounts, records or other documents as the Gift-tax Officer may require.

(5) If any person fails to make a return in response to any notice under sub-section (2) of section 14 or fails to comply with the terms of any notice issued under sub-section (2) or sub-section (4), the Gift-tax Officer shall estimate the value of taxable gifts to the best of his judgment and determine the amount payable by the person as gift-tax.

17. (1) If the Gift-tax Officer—

Gift escaping assessment.

35 (a) has reason to believe that by reason of omission or failure on the part of an assessee to make a return under section 14 for any assessment year or to disclose fully and truly all material facts necessary for his assessment for that year, any taxable gift has escaped assessment for that year, whether

by reason of under-assessment or assessment at too low a rate or otherwise; or

(b) has, in consequence of any information in his possession, reason to believe, notwithstanding that there has been no such omission or failure as is referred to in clause (a), that any taxable gift has escaped assessment for any year, whether by reason of under-assessment or assessment at too low a rate or otherwise;

he may, in cases falling under clause (a) at any time within eight years and in cases falling under clause (b) at any time within four years of the end of that assessment year, serve on the assessee a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 14, and may proceed to assess or re-assess any taxable gift which has escaped assessment, and the provisions of this Act shall, so far as may be, apply as if the notice had issued under that sub-section.

(2) Nothing contained in this section limiting the time within which any assessment or re-assessment may be made shall apply to an assessment or re-assessment made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order under section 23, section 24, section 25, section 27 or section 29.

Penalty for concealment,

18. (1) If the Gift-tax Officer, Appellate Assistant Commissioner, Commissioner or Appellate Tribunal, in the course of any proceedings under this Act, is satisfied that any person—

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(a) has without reasonable cause failed to furnish the return which he is required to furnish under sub-section (1) or sub-section (2) of section 14 or section 17 or has without reasonable cause failed to furnish it within the time allowed and in the manner required; or

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(b) has without reasonable cause failed to comply with a notice under sub-section (2) or sub-section (4) of section 16; or

(c) has concealed the particulars of any gift or deliberately furnished inaccurate particulars thereof;

he or it may, by order in writing, direct that such person shall pay by way of penalty—

35

(i) in the case referred to in clause (a), in addition to the amount of gift-tax payable by him, a sum not exceeding one and a half times the amount of such tax, and

(ii) in the case referred to in clause (b) or clause (c), in addition to the amount of gift-tax payable by him, a sum not exceeding one and a half times the amount of the tax, if any, which would have been avoided if the return made by such person under section 14, section 15 or section 17, as the case may be, had been accepted as correct.

(2) No order shall be made under sub-section (1) unless the person concerned has been given a reasonable opportunity of being heard.

(3) No prosecution for an offence under this Act shall be instituted in respect of the same facts in relation to which a penalty has been imposed under this section.

(4) The Gift-tax Officer shall not impose any penalty under this section without the previous approval of the Inspecting Assistant Commissioner of Gift-tax.

19. (1) If a person making a taxable gift of the value of not less than rupees ten thousand pays into the treasury within fifteen days of his making the gift, an amount calculated in the manner specified in sub-section (2), he shall, at the time of assessment under section 16, be given credit in addition to the amount so paid, for an amount equal to ten per cent. of the amount so paid. Rebate on advance payments.

(2) The amount to be paid into the treasury under sub-section (1) shall be—

(a) where the value of the gift does not exceed rupees fifty thousand, four per cent. of the value;

(b) where the value of the gift exceeds rupees fifty thousand but does not exceed rupees two hundred thousand, eight per cent. of the value; and

(c) in any other case, fifteen per cent. of the value.

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CHAPTER V

LIABILITY TO ASSESSMENT IN SPECIAL CASES

20. (1) Where a person dies, his executor, administrator, or other legal representative shall be liable to pay out of the estate of the deceased person, to the extent to which the estate is capable of meeting the charge, the gift-tax determined as payable by such person, or any sum which would have been payable by him under this Act if he had not died. Tax of deceased person payable by legal representative.

(2) Where a person dies without having furnished a return under section 14, or after having furnished a return which the Gift-tax Officer has reason to believe to be incorrect or incomplete,

the Gift-tax Officer may make an assessment of the value of the taxable gifts made by such person and determine the gift-tax payable by him, and for this purpose may, by the issue of the appropriate notice which would have had to be served upon the deceased person if he had survived, require from the executor, administrator or 5 other legal representative of the deceased person any accounts, documents or other evidence which might, under the provisions of section 16, have been required from the deceased person.

(3) The provisions of sections 14, 15 and 17 shall apply to an executor, administrator or other legal representative as they apply 10 to any person referred to in that section.

Assessment after partition of a Hindu undivided family.

21. (1) Where, at the time of making an assessment, it is brought to the notice of the Gift-tax Officer that a partition has taken place among the members of a Hindu undivided family, and the Gift-tax Officer, after enquiry, is satisfied that the joint family 15 property has been partitioned among the various members or groups of members in definite portions, he shall record an order to that effect and he shall make assessments on the amount of taxable gifts made by the family as such as if no partition had taken place and each member or group of members shall be liable jointly 20 and severally for the tax assessed on the value of the taxable gifts made by the joint family as such.

(2) Where the Gift-tax Officer is not so satisfied, he may, by order, declare that such family shall be deemed for the purposes of this Act to continue to be a Hindu undivided family. 25

Liability in case of discontinued firm or association of persons.

22. Where a firm or association of persons liable to pay gift-tax under this Act has been discontinued or dissolved, every person who was at the time of such discontinuance or dissolution a partner of such firm or a member of such association shall, in respect of the taxable gifts made by the firm or association, be jointly and 30 severally liable to assessment and for the amount of tax payable by such firm or association under this Act and the provisions of this Act shall, so far as may be, apply to any such assessment.

CHAPTER VI

APPEALS, REVISIONS AND REFERENCES

35

Appeal to the Appellate Assistant Commissioner from orders of Gift-tax Officers.

23. (1) Any person,—

(a) objecting to the value of his taxable gifts determined under this Act; or

(b) objecting to the amount of gift-tax determined as payable by him under this Act; or 40

(c) denying his liability to be assessed under this Act; or
(d) objecting to any penalty imposed by the Gift-tax Officer under section 18; or

(e) objecting to any order of the Gift-tax Officer under
5 sub-section (2) of section 21; or

(f) objecting to any penalty imposed by the Gift-tax Officer under sub-section (1) of section 46 of the Income-tax Act as applied under section 34 for the purposes of gift-tax;

may appeal to the Appellate Assistant Commissioner against the
10 assessment or order, as the case may be, in the prescribed form and verified in the prescribed manner:

Provided that no appeal shall lie under clause (f) unless the tax has been paid before the appeal is filed.

(2) An appeal shall be presented within thirty days of the
15 receipt of the notice of demand relating to the assessment or penalty objected to, or the date on which any order objected to, is communicated to him, but the Appellate Assistant Commissioner may admit an appeal after the expiration of the period aforesaid if he is satisfied that the appellant had sufficient cause for not pre-
20 senting the appeal within that period.

(3) The Appellate Assistant Commissioner shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing.

(4) The Appellate Assistant Commissioner may,—

25 (a) at the hearing of an appeal allow an appellant to go into any ground of appeal not specified in the grounds of appeal;

(b) before disposing of an appeal, make such further inquiry as he thinks fit or cause further inquiry to be made by the Gift-tax Officer.

30 (5) In disposing of an appeal, the Appellate Assistant Commissioner may pass such order as he thinks fit which may include an order enhancing the amount of gift-tax determined or penalty imposed:

35 Provided that no order enhancing the amount of gift-tax determined or penalty imposed shall be made unless the person affected hereby has been given a reasonable opportunity of showing cause against such enhancement.

(6) A copy of every order passed by the Appellate Assistant Commissioner under this section shall be forwarded to the appellant and the Commissioner.

Appeal to the
Appellate
Tribunal
from orders
of the
Appellate
Assistant
Commis-
sioner.

24. (1) Any assessee objecting to an order passed by the Appellate Assistant Commissioner under section 23 may appeal to the Appellate Tribunal within sixty days of the date on which he is served with notice of such order. 5

(2) The Commissioner may, if he is not satisfied as to the correctness of any order passed by an Appellate Assistant Commissioner under section 23, direct the Gift-tax Officer to appeal to the Appellate Tribunal against such order, and such appeal may be made at any time before the expiry of sixty days of the date on which the order is communicated to the Commissioner. 10

(3) The Appellate Tribunal may admit an appeal after the expiry of sixty days referred to in sub-sections (1) and (2) if it is satisfied that there was sufficient cause for not presenting it within that period. 15

(4) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, except in the case of an appeal referred to in sub-section (2), be accompanied by a fee of rupees one hundred. 20

(5) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, and any such orders may include an order enhancing the amount of gift-tax determined or penalty imposed: 25

Provided that no order enhancing the amount of gift-tax determined or penalty imposed shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(6) Where the appellant objects to the valuation of any gift, the Appellate Tribunal may, and if the appellant so requires, shall, refer the question of disputed value to the arbitration of two valuers, one of whom shall be nominated by the appellant and the other by the respondent, and the Appellate Tribunal shall, so far as that question is concerned, pass its order under sub-section (5) conformably to the decision of the valuers: 30 35

Provided that if there is a difference of opinion between the two valuers, the matter shall be referred to a third valuer nomi-

nated by agreement, or failing agreement, by the Appellate Tribunal, and the decision of that valuer on the question of valuation shall be final.

(7) The costs of any arbitration proceeding under sub-section 5 (6) shall be borne by the Central Government or the assessee, as the case may be, at whose instance the question was referred to the valuers:

Provided that where the assessee has been wholly or partially successful in any reference made at his instance, the extent to which the costs shall be borne by the assessee shall be at the discretion of the Appellate Tribunal.

(8) The valuers may, in disposing of any matter referred to them for arbitration under sub-section (6), hold or cause to be held such inquiry as they think fit, and after giving the appellant and the respondent an opportunity of being heard, pass such orders thereon as they think fit and shall send a copy of such order to the Appellate Tribunal.

(9) A copy of every order passed by the Appellate Tribunal under this section shall be forwarded to the assessee and the Commissioner.

(10) Save as provided in section 27, any order passed by the Appellate Tribunal on appeal shall be final.

(11) The provisions of sub-sections (5), (7) and (8) of section 5A of the Income-tax Act shall apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its functions under the Income-tax Act.

25. (1) The Commissioner may, either on his own motion or on application made by an assessee in this behalf, call for the record of any proceeding under this Act in which an order has been passed by any authority subordinate to him, and may make such inquiry or cause such inquiry to be made, and, subject to the provisions of this Act, pass such order thereon not being an order prejudicial to the assessee, as the Commissioner thinks fit:

Power of Commissioner to revise orders of subordinate authorities

Provided that the Commissioner shall not revise any order under this sub-section in any case—

(a) where an appeal against the order lies to the Appellate Assistant Commissioner or to the Appellate Tribunal and the

time within which such appeal can be made has not expired or, in the case of the Appellate Tribunal, the assessee has not waived his right of appeal;

(b) where the order is pending in appeal before the Appellate Assistant Commissioner or has been the subject of an appeal to the Appellate Tribunal;

(c) where the application is made by the assessee for such revision unless—

(i) the application is accompanied by a fee of rupees twenty-five; and

(ii) the application is made within one year from the date of the order sought to be revised or within such further period as the Commissioner may think fit to allow on being satisfied that the assessee was prevented by sufficient cause from making the application within that period; and

(d) where the order is sought to be revised by the Commissioner on his own motion, if such order is made more than one year previously.

Explanation.—For the purposes of this sub-section,—

(a) the Appellate Assistant Commissioner shall be deemed to be an authority subordinate to the Commissioner, and

(b) an order by the Commissioner declining to interfere shall be deemed not to be an order prejudicial to the assessee.

(2) Without prejudice to the provisions contained in sub-section (1), the Commissioner may call for and examine the record of any proceeding under this Act, and, if he considers that any order passed therein by a Gift-tax Officer is erroneous in so far it is prejudicial to the interests of revenue, he may, after giving the assessee an opportunity of being heard, and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment or cancelling it and directing a fresh assessment.

(3) No order shall be made under sub-section (2) after the expiry of two years from the date of the order sought to be revised.

26. (1) Any assessee objecting to an order of enhancement made by the Commissioner under section 25 may appeal to the Appellate Tribunal within sixty days of the date on which the order is communicated to him. Appeal to the Appellate Tribunal from orders of enhancement by Commissioner.
- 5 (2) An appeal to the Appellate Tribunal under sub-section (1) shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of rupees one hundred.
- (3) The provisions of sub-sections (3) and (5) to (10) inclusive of section 24 shall apply in relation to any appeal under this section as
10 they apply in relation to any appeal under that section.
27. (1) Within ninety days of the date upon which he is served with an order under section 24 or section 26, the assessee or the Commissioner may present an application in the prescribed form and where the application is by the assessee, accompanied by a fee of
15 rupees one hundred, to the Appellate Tribunal requiring the Appellate Tribunal to refer to the High Court any question of law arising out of such order, and the Appellate Tribunal shall, if in its opinion, a question of law arises out of such order, state the case for the opinion of the High Court. Reference to High Court.
- 20 (2) An application under sub-section (1) may be admitted after the expiry of the period of ninety days aforesaid if the Appellate Tribunal is satisfied that there was sufficient cause for not presenting it within the said period.
- (3) If, on an application made under sub-section (1), the Appellate
25 Tribunal,—
- (a) refuses to state a case on the ground that no question of law arises, or
- (b) rejects it on the ground that it is time-barred,
- the applicant may, within ninety days from the date on which he
30 is served with a notice of refusal or rejection, as the case may be, apply to the High Court, and the High Court may, if it is not satisfied with the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case to the High Court, and on receipt of such requisition the Appellate Tribunal shall state
35 the case:

Provided that, if in any case where the Appellate Tribunal has been required by an assessee to state a case the Appellate Tribunal refuses to do so on the ground that no question of law arises, the

assessee may, within thirty days from the date on which he receives notice of refusal to state the case, withdraw his application, and if he does so, the fee paid by him under sub-section (1) shall be refunded to him.

(4) The statement to the High Court shall set forth the facts, the determination of the Appellate Tribunal and the question of law which arises out of the case.

(5) If the High Court is not satisfied that the case as stated is sufficient to enable it to determine the question of law raised thereby, it may require the Appellate Tribunal to make such modification therein as it may direct.

(6) The High Court, upon hearing any such case, shall decide the question of law raised therein, and in doing so, may, if it thinks fit, alter the form of the question of law and shall deliver judgment thereon containing the grounds on which such decision is founded and shall send a copy of the judgment under the seal of the Court and the signature of the Registrar to the Appellate Tribunal and the Appellate Tribunal shall pass such orders as are necessary to dispose of the case conformably to such judgment.

(7) Where the amount of any assessment is reduced as a result of any reference to the High Court, the amount, if any, overpaid as gift-tax shall be refunded with such interest as the Commissioner may allow, unless the High Court, on intimation given by the Commissioner within thirty days of the receipt of the result of such reference that he intends to ask for leave to appeal to the Supreme Court, makes an order authorising the Commissioner to postpone payment of such refund until the disposal of the appeal in the Supreme Court.

(8) The costs of any reference to the High Court shall be in the discretion of the Court.

(9) Section 5 of the Indian Limitation Act, 1908, shall apply to an application to the High Court under this section.

30

9 of 1908.

Hearing by
High Court.

28. When a case has been stated to the High Court under section 27, it shall be heard by a Bench of not less than two Judges of the High Court and shall be decided in accordance with the opinion of such Judges or of the majority of such Judges, if any:

Provided that where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall

then be heard upon that point only by one or more of the Judges of the High Court, and such point shall be decided according to the opinion of the majority of the Judges who have heard the case, including those who first heard it.

5 29. (1) An appeal shall lie to the Supreme Court from any judgment of the High Court delivered on a case stated under section 27 in any case which the High Court certifies as a fit case for appeal to the Supreme Court. Appeal to Supreme Court.

10 (2) Where the judgment of the High Court is varied or reversed on appeal under this section, effect shall be given to the order of the Supreme Court in the manner provided in sub-section (6) of section 27.

15 (3) The High Court may, on application made to it for the execution of any order of the Supreme Court in respect of any costs awarded by it, transmit the order for execution to any Court subordinate to the High Court.

CHAPTER VII

PAYMENT AND RECOVERY OF GIFT-TAX

20 30. Gift-tax shall be payable by the donor but where in the opinion of the Gift-tax Officer the tax cannot be recovered from the donor, it may be recovered from the donee; Gift-tax by whom payable.

25 Provided that the amount of the tax which may be recovered from the donee shall not exceed that portion of the gift-tax which is attributable to the value of the gift made to the donee by the donor as at the date of the gift.

31. Gift-tax payable in respect of any gift comprising immovable property shall be a first charge on that property but any such charge shall not affect the title of a *bona fide* purchaser for valuable consideration without notice of the charge. Gift-tax to be charged on property gifted.

30 32. When any tax or penalty is due in consequence of any order passed under this Act, the Gift-tax Officer shall serve upon the assessee or other person liable to pay such tax or penalty a notice of demand in the prescribed form specifying the sum so payable and the time within which it shall be payable. Notice of demand.

35 33. (1) Any amount specified as payable in a notice of demand issued under section 32 shall be paid within the time, at the place, and to the person mentioned in the notice, or if no time is so mentioned, then on or before the first day of the second month following Recovery of tax and penalties.

the date of service of the notice, and any assessee or other person liable to pay the amount failing so to pay shall be deemed to be in default.

(2) Notwithstanding anything contained in this section, where an assessee has presented an appeal under section 23, the Gift-tax Officer may, in his discretion treat the assessee as not being in default as long as such appeal is undisposed of.

Mode of
recovery.

34. The provisions of sub-sections (1), (1A), (2), (3), (4), (5), (5A), (6) and (7) of section 46 and section 47 of the Income-tax Act shall apply as if the said provisions were provisions of this Act, and referred to gift-tax and sums imposed by way of penalty under this Act instead of to income-tax and sums imposed by way of penalty under that Act, and to Gift-tax Officer and Commissioner of Gift-tax instead of to Income-tax Officer and Commissioner of Income-tax.

CHAPTER VIII

15

MISCELLANEOUS

Rectification
of mistakes.

35. At any time within four years from the date of any order passed by him, or it, the Gift-tax Officer, the Appellate Assistant Commissioner, the Commissioner and the Appellate Tribunal may, on his, or its, own motion rectify any mistake apparent from the record and shall, within a like period rectify any such mistake which has been brought to the notice of the Gift-tax Officer, the Appellate Assistant Commissioner, the Commissioner or the Appellate Tribunal, as the case may be, by an assessee:

Provided that no such rectification shall be made which has the effect of enhancing the amount of gift-tax determined unless the assessee has been given a reasonable opportunity of being heard in the matter.

Prosecution.

36. (1) If any person fails without reasonable cause,—

(a) to furnish in due time any return of gifts under this Act;

(b) to produce, or cause to be produced, on or before the date mentioned in any notice under sub-section (2) or sub-section (4) of section 16, such accounts, records and documents as are referred to in the notice;

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(c) to furnish within the time specified any statement or information which such person is bound to furnish to the Gift-tax Officer under section 38;

he shall, on conviction before a magistrate, be punishable with fine which may extend to rupees ten for every day during which the default continues.

(2) If a person makes a statement in a verification in any return of gifts furnished under this Act or in a verification mentioned in section 23, 24 or 26 which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with simple imprisonment which may extend to one year, or with fine which may extend to rupees one thousand, or with both.

(3) A person shall not be proceeded against for an offence under this section except at the instance of the Commissioner.

(4) The Commissioner may either before or after the institution of proceedings compound any such offence.

Explanation.—For the purposes of this section “magistrate” means a presidency magistrate, a magistrate of the first class or a magistrate of the second class specially empowered by the Central Government to try offences under this Act.

37. The Gift-tax Officer, the Appellate Assistant Commissioner, the Commissioner and the Appellate Tribunal shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:—

Power to take evidence on oath, etc.

- (a) enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavit;
- (d) issuing commissions for the examination of witnesses;

and any proceeding before the Gift-tax Officer, the Appellate Assistant Commissioner, the Commissioner or the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code.

38. Where, for the purposes of determining the gift-tax payable by any person, it appears necessary for the Gift-tax Officer to obtain any statement or information from any person, the Gift-tax Officer may serve a notice requiring such person, on or before a date to be therein specified, to furnish such statement or information on the points specified in the notice, and that person shall, notwithstanding

Power to call for information.

anything in any law to the contrary, be bound to furnish such statement or information to the Gift-tax Officer:

Provided that no legal practitioner shall be bound to furnish any statement or information under this section based on any professional communications made to him otherwise than as permitted by section 126 of the Indian Evidence Act, 1872.

1 of 1872

Effect of transfer of authorities on pending proceedings.

39. Whenever in respect of any proceeding under this Act any Gift-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises such jurisdiction, the authority so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor.

Computation of period of limitation.

40. In computing the period of limitation, prescribed for an appeal under this Act or for an application under section 27, the day on which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded.

Service of notice.

41. (1) A notice or a requisition under this Act may be served on the person therein named either by post or as if it were summons issued by a court under the Code of Civil Procedure, 1908.

5 of 1908.

(2) Any such notice or requisition may, in the case of a firm or a Hindu undivided family be addressed to any member of the firm or to the manager or any adult male member of the family, and in the case of a company or association of persons be addressed to the principal officer thereof.

Prohibition of disclosure of information.

42. (1) Subject to the provisions contained in sub-section (2), the provisions of section 54 of the Income-tax Act shall apply to all accounts or in relation to statements, documents, evidence or affidavits given, produced or obtained in connection with or in the course of any proceeding under this Act as they apply to or in relation to similar particulars under that Act subject to the modification that the reference to any "Income-tax authority" in clause (d) of sub-section (2) and to the "Commissioner" in sub-section (5) of that Act shall be construed as a reference to any "Gift-tax authority" and to the "Commissioner of Gift-tax", respectively.

(2) Nothing contained in section 54 of the Income-tax Act shall apply to the disclosure of any such particulars as are referred to in sub-section (1) to any person acting in the execution of this Act or the Income-tax Act, or the Estate Duty Act, 1953, or the Wealth-tax Act, 1957, or the Expenditure-tax Act, 1957, where it is necessary or desirable to disclose the same to him for the purposes of this Act or any of the other Acts aforesaid.

34 of 1953.
27 of 1957.
29 of 1957.

43. No suit shall lie in any civil court to set aside or modify any assessment made under this Act, and no prosecution, suit or other legal proceeding shall lie against any officer of the Government for anything in good faith done or intended to be done under this Act.

Bar of suits
in civil
court.

- 5 44. Any assessee who is entitled to or required to attend before any Gift-tax authority or the Appellate Tribunal in connection with any proceeding or inquiry under this Act, except where he is required under this Act, to attend in person, may attend by a person authorised by him in writing in this behalf, being a relative of, or a person
10 regularly employed by, the assessee or a legal practitioner or a chartered accountant or any other person having such qualifications as may be prescribed.

Appearance
before Gift-
tax authori-
ties by au-
thorised
representa-
tives.

Explanation.—For the purposes of this section,—

- 15 (a) the expression “a person regularly employed by the assessee” includes any officer of a scheduled bank with which the assessee maintains a current account or has other regular dealings;

(b) “chartered accountant” means a chartered accountant
of 1949. as defined in the Chartered Accountants Act, 1949.

- 20 45. The Central Government may enter into any agreement with the Government of any reciprocating country for the avoidance or relief of double taxation with respect to gift-tax payable under this Act and under the corresponding law in force in the reciprocating country and may, by notification in the Official Gazette, make such
25 provision as may be necessary for implementing the agreement.

Agreement
for avoidance
or relief of
double
taxation
with respect
to gift-tax.

Explanation.—The expression “reciprocating country” for the purposes of this Act means any country which the Central Government may, by notification in the Official Gazette, declare to be a reciprocating country.

- 30 46. The provisions of this Act shall not apply to gifts made by—

Act not to
apply in
certain
cases.

(a) a Government company as defined in section 617 of the Companies Act, 1956;

1 of 1956.

(b) a corporation established by a Central, State or Provincial Act;

- 35 (c) any company (other than a private company as defined in section 3 of the Companies Act, 1956):

Provided that the affairs of the company or the shares in the company carrying more than fifty per cent. of the total voting power were at no time during the previous year controlled or held by less than six persons;

(d) a company which is a subsidiary of and in which more than half the nominal value of equity share capital is held by a company referred to in clause (c);

(e) any institution or fund to which the provisions of section 15B of the Income-tax Act apply:

Explanation.—For the purpose of computing the number of six persons referred to in the proviso to clause (c), persons who are related to one another as husband and wife, brother and sister, brothers, sisters or who are lineal descendants or ascendants of one another and persons who are nominees of any other person together with that other person shall be treated as a single person.

Power to
make rules.

47. (1) The Board may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for—

(a) the manner in which the market value of any property may be determined;

(b) the form in which returns under this Act shall be made and the manner in which they shall be verified;

(c) the form in which appeals and applications under this Act may be made, and the manner in which they shall be verified;

(d) the form of any notice of demand under this Act;

(e) the refunds which may be made under this Act;

(f) the areas for which lists of valuers may be drawn up;

(g) any other matter which has to be, or may be, prescribed for the purposes of this Act.

(3) The power to make rules conferred by this section shall on the first occasion of the exercise thereof include the power to give retrospective effect to the rules or any of them from a date not earlier than the date of commencement of this Act.

(4) All rules made under this Act shall be laid before each House of Parliament as soon as may be after they are made and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

THE SCHEDULE

(See section 7)

RATES OF GIFT-TAX

| | Rate of gift- tax |
|---|----------------------|
| 5 | |
| (1) On the first Rs. 50,000 of the value of all taxable gifts . | 4% |
| (2) On the next Rs. 50,000 of the value of all taxable gifts . | 6% |
| (3) On the next Rs. 50,000 of the value of all taxable gifts . | 8% |
| (4) On the next Rs. 50,000 of the value of all taxable gifts . | 10% |
| 10 (5) On the next Rs. 1,00,000 of the value of all taxable gifts | 12% |
| (6) On the next Rs. 2,00,000 of the value of all taxable gifts | 15% |
| (7) On the next Rs. 5,00,000 of the value of all taxable gifts | 20% |
| (8) On the next Rs. 10,00,000 of the value of all taxable gifts | 25% |
| (9) On the next Rs. 10,00,000 of the value of all taxable gifts | 30% |
| 15 (10) On the next Rs. 20,00,000 of the value of all taxable gifts | 35% |
| (11) On the balance of the value of all taxable gifts . . . | 40% |

STATEMENT OF OBJECTS AND REASONS

The object of this Bill is to levy a tax on gifts made by individuals, Hindu undivided families, companies, firms and associations of persons. Gifts from one person to another provide a convenient means of avoiding or reducing liability to Estate Duty, Income-tax, Wealth-tax, and Expenditure-tax. The only effective method of checking such attempts at evasion or reduction of tax liability is by levying a tax on gifts. With the introduction of this tax, the integrated tax structure which the Government have been aiming at will be complete.

The notes on clauses explain the various provisions contained in the Bill.

J. NEHRU.

NEW DELHI;

The 28th February, 1958.

Notes on clauses

Clause 2 defines, *inter alia*, "gift", "previous year" and "transfer of property". All voluntary transfers of property without consideration and transfers deemed to be gifts under clause 4 of the Bill are covered by the definition of "gift". The definition of "previous year" secures that all gifts made during the period between the valuation dates determined for two consecutive wealth-tax assessments are charged to gift-tax in one year. The definition of "transfer of property" is designed to cover all possible transfers of property.

Clause 3 is the charging clause which provides that the tax is to be levied on all gifts made during the previous year by individuals, Hindu undivided families, companies, firms and associations of persons. The persons referred to in clause 46 are however exempt from the charge. The liberal exemption provided for gifts made to one's wife may lead to avoidance of tax by gifts being made through one's wife and the *Explanation* to this clause seeks to check such avoidance.

Clause 4 brings to charge certain transfers which are for nominal or inadequate consideration or for a consideration which although stipulated is not meant to pass actually. Similarly release or discharge from one's debts or liabilities, appropriations or withdrawals from joint accounts for the benefit of a person other than the person who made the original deposit or investment, are brought within the scope of gifts.

Clause 5 provides for the exemption of various types of gifts. Besides the gifts of property enumerated in sub-clauses (i) to (xi) which are exempt from charge to the extent indicated therein, there is a basic exemption of Rs. 10,000 which will be reduced to Rs. 5,000 if the taxable gift to an individual donee exceeds Rs. 3,000. This reduction of basic exemption is meant to discourage large gifts being made to the same individual.

Clause 6 provides for the manner in which the values of gifts may be determined. Ordinarily the market value of the property gifted would be the value of the gift.

Clause 7 while providing that the tax is charged on the value of gifts made during the previous year, lays down that the rate of tax shall be determined by the value of the gifts made during the five previous years preceding the assessment year. Gifts made before the 1st day of April, 1957 though within the five year period, will not be taken into account for aggregation.

Clauses 8 to 13 deal with the administrative machinery. The intention is to entrust the administration of this Act to the officers of the Income-tax Department under a procedure which follows broadly the procedure in the Income-tax Act.

Clauses 14 to 18 are assessment provisions which follow similar provisions in the Income-tax, Wealth-tax and Expenditure-tax Acts.

Clause 19 provides for a rebate of 10 per cent. on advance payments towards tax liability made within fifteen days of making a gift. The amount to be paid is calculated at specified percentages on the value of the gift. This provision is meant to encourage prompt payments.

Clauses 20 to 29 relate to assessment in special cases, appeals, revisions and references and are similar to those in the Income-tax, Wealth-tax and Expenditure-tax Acts.

Clause 30 provides that the tax is primarily the liability of the donor, but in the interests of revenue it also provides that the donee will be jointly and severally liable for the tax. The donee's liability is, however, restricted to the tax attributable to the gift received by him.

Clause 31 makes the gift-tax a first charge on the immovable property comprised in the gift.

Clauses 32 to 45 provide for payment and recovery of the tax and other connected matters. They follow similar provisions in the Income-tax, Wealth-tax and Expenditure-tax Acts.

Clause 46 exempts Government companies, corporations established by Central, State or Provincial Act, public limited companies whose affairs are controlled by not less than six persons and charitable institutions or funds from the application of the Act.

Clause 47 makes the usual provision authorising the Central Board of Revenue to make rules for carrying out the purposes of the Act.

FINANCIAL MEMORANDUM

The Bill proposes to levy a tax on gifts made by individuals, Hindu undivided families, companies, firms and associations of persons. Although this is a new tax, the procedure for assessment, appeal and collection follows the same pattern as in Income-tax, Wealth-tax and Expenditure-tax Acts. It is, therefore, proposed to administer the tax through the Income-tax Department which is administering the Wealth-tax and Expenditure-tax Acts as well. The pressure of work on the Income-tax Department has even otherwise considerably increased since last year consequent on the reduction of minimum taxable limit to Rs. 3,000. The Department cannot, therefore, take on the responsibility of administering this new tax without some expansion of staff at the various levels of the departmental cadres.

2. The increase of personnel, along with incidental expenses of administration, including payment of remuneration to valuers is estimated to cost Rs. 8 lakhs. Actual recruitment of staff will, however, be made as and when it is found really necessary.

I. VOLUME OF WORK

As we have no reliable data regarding the number of gifts made in a year, the extent and value, it is very difficult to make even a rough estimate of the number of persons who would be called upon to pay gift-tax if the Bill is enacted as proposed. It would, however, be safe to assume that normally only the very well-to-do persons would be in a position to make substantial gifts which attract liability to this tax. As a rough guess the number of such assesseees may be taken as 10,000 in any one year.

II. REQUIREMENT OF PERSONNEL AND FINANCE

| | | No. | Cost Rs. |
|--|--------------|-----------|------------------------|
| <i>A. Officers:</i> | | | |
| No. of Inspecting Assistant Commissioners and Appellate Assistant Commissioners. | | | |
| (2+2) .. | 4 | 4x1200x12 | 57,600 |
| No. of Gift-tax Officers taking the average disposal per Officer per annum at 400. .. | 25 | 25x500x12 | 1,50,000 |
| <i>B. Staff:</i> | | | |
| Inspectors .. | 12 | 12x250x12 | 36,000 |
| No. of Supervisors .. | 5 | 5x350x12 | 21,000 |
| No. of Head Clerks .. | 24 | 24x250x12 | 72,000 |
| No. of UDCs. .. | 58 | 58x150x12 | 1,04,400 |
| No. of LDCs. .. | 29 | 29x120x12 | 41,760 |
| No. of stenographers. .. | 4 | 4x150x12 | 7,200 |
| No. of steno-typists. .. | 27 | 27x140x12 | 45,360 |
| | | | <u>5,35,320</u> |
| | | say | <u>5,50,000</u> |
| <i>C. Incidental expenditure:</i> | | | |
| Incidental expenses including Class IV staff, contingencies and payment of remuneration to valuers estimated at .. | .. | .. | <u>2,50,000</u> |
| | TOTAL | | <u>8,00,000</u> |

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 47 of the Bill authorises the Central Board of Revenue to make rules with respect to matters like the manner in which market value of property gifted may be determined in cases where they are not easily determinable, the form in which returns may be made under the Act, the form in which appeals should be filed or notices of demand issued and the manner in which refunds may be made. The rule making power is of a normal character.

BILL No. 18 OF 1958

A Bill further to amend the Estate Duty Act, 1953.

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

§ 1. (1) This Act may be called the Estate Duty (Amendment) Act, 1958. Short title and commencement.

(2) It shall come into force on the 1st day of April, 1958.

34 of 1953. 2. In section 2 of the Estate Duty Act, 1953 (hereinafter referred to as the principal Act),— Amendment of section 2.

10 (a) after clause (1), the following clauses shall be inserted, namely:—

‘(1A) “Appellate Controller” means a person appointed to be an Appellate Controller of Estate Duty under section 4;

15 (1B) “Appellate Tribunal” means the Appellate Tribunal appointed under section 5A of the Indian Income-tax Act, 1922;’

11 of 1922.

(b) after clause (12), the following clause shall be inserted, namely:—

20 ‘(12A) “person accountable” or “accountable person” means the person accountable for estate duty within the meaning of this Act;’

(c) after clause (14), the following clause shall be inserted, namely:—

25 ‘(14A) “principal officer”, in relation to a company or a corporation established by a Central, State or Provincial

*The President has, in pursuance of clauses (1) and (3) of article 117 and clause (1) of article 274 of the Constitution of India, recommended to the Lok Sabha, the introduction and consideration of the Bill.

Act, means the manager, managing director, managing agent or secretary, and includes any person connected with the management of the company or corporation upon whom the Controller has served a notice of his intention of treating him as the principal officer for the purposes of this Act;'. 5

Amendment
of section 4.

3. In section 4 of the principal Act,—

(a) in sub-section (1), after clause (b), the following clause shall be inserted, namely:—

“(bb) Appellate Controllers of Estate Duty,”; 10

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) The Central Government may appoint as many Appellate Controllers of Estate Duty as it thinks fit and they shall, subject to the control of the Board, perform their 15 functions in respect of such estates or classes of estates or such areas as the Board may direct, and where such directions have assigned to two or more Appellate Controllers the same estate or classes of estate or the same area, they shall perform their functions in accordance with any orders 20 which the Board may make for the distribution and allocation of the work to be performed.”;

(c) to sub-section (5), the following proviso shall be added, namely:—

“Provided that no such orders, instructions or directions 25 shall be given by the Board so as to interfere with the discretion of the Appellate Controller of Estate Duty in the exercise of his appellate functions.”.

Amendment
of section 9.

4. In section 9 of the principal Act,—

(a) in sub-section (1), for the words “two years”, the words 30 “five years” shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The provisions of sub-section (1) shall not apply 35 to—

(a) gifts made in consideration of marriage, subject to a maximum of rupees ten thousand in value;

(b) gifts which are proved to the satisfaction of the Controller to have been part of the normal expenditure of the deceased, subject to a maximum of rupees ten 40 thousand in value.”.

5. In section 10 of the principal Act, in the proviso, for the words "two years", the words "five years" shall be substituted. Amendment of section 10.

6. In section 11 of the principal Act, in sub-section (2), for the words "two years", in both the places where they occur, the words "five years" shall be substituted. Amendment of section 11.

7. In section 12 of the principal Act, in the proviso to sub-section (1), for the words "two years", the words "five years" shall be substituted. Amendment of section 12.

8. In section 16 of the principal Act, in clause (a) of sub-section (2), for the words "otherwise than for full consideration", the words "notwithstanding that the disposition was made for full consideration" shall be substituted. Amendment of section 16.

9. In section 17 of the principal Act, in clause (vi) of sub-section (4), for the word "even", the word "event" shall be substituted. Amendment of section 17.

10. In section 18 of the principal Act, the *Explanation* shall be omitted. Amendment of section 18.

11. In section 19 of the principal Act,—

(a) in sub-section (2), for the words "outside the territories to which this Act extends", the words "outside India" shall be substituted; Amendment of section 19.

(b) in sub-section (4), for the words and figures "section 230 of the Indian Companies Act, 1913 (VII of 1913)" and "section 129 of the Indian Companies Act, 1913," the following words and figures shall respectively be substituted, namely:—

of 1956. 25 "section 530 of the Companies Act, 1956" and "section
of 1956. 123 of the Companies Act, 1956,".

12. In Part II, after section 20 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 20A.

30 "20A. Where a company incorporated outside India which carries on business in India has been treated for the purposes of the Indian Income-tax Act, 1922, as resident for two out of the three completed assessments for the years immediately preceding the date of death of any member of or debenture holder in the company, the company shall, within three months of the receipt of intimation of the death of the member or debenture holder, as the case may be, furnish to the Controller such particulars as may be prescribed in respect of the interest of the deceased in the company, and the company shall be accountable for the estate duty which shall be levied at the rates mentioned in Part II of the Second Schedule on the principal value of the shares or debentures held by the deceased in Duty and liability of companies incorporated outside India in certain cases.

35

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11 of 1922.

the company except in cases where the deceased was a person domiciled in India and the person accountable under any of the other provisions of this Act has obtained a certificate from the Controller showing that either the estate duty in respect thereof has been paid or will be paid or that none is due, as the case may be."

Amendment
of section
21.

13. In section 21 of the principal Act, in sub-section (1), for the words "outside the territories to which this Act extends" and "the said territories", wherever they occur, the words "outside India" and "India" shall respectively be substituted. 10

Amendment
of section
22.

14. In section 22 of the principal Act,—

(a) for the words "two years", the words "five years" shall be substituted; and

(b) the proviso shall be omitted.

Amendment
of section
27.

15. In section 27 of the principal Act, for the word and figure "section 9" in both the places where they occur, the words "this Act" shall be substituted. 15

Amendment
of section
33.

16. In section 33 of the principal Act, in sub-section (1),—

(a) in clause (a), for the words "under a gift", the words "under one or more gifts" shall be substituted; 20

(b) in clause (b), for the words "under a gift" and "two years", the words "under one or more gifts" and "five years" shall respectively be substituted;

(c) in clause (k), for the words "rupees five thousand", the words "rupees ten thousand" shall be substituted. 25

Substitution
of new sec-
tion for
section 34.

17. For section 34 of the principal Act, the following section shall be substituted, namely:—

Aggregation.

"34. (1) For the purpose of determining the estate duty to be paid on any property passing on the death of the deceased,—

(a) all property so passing other than property exempted from estate duty under clauses (c), (d), (e), (i) and (j) of sub-section (1) of section 33;

(b) agricultural land so passing, if any, situate in any State not specified in the First Schedule; and

(c) in the case of property so passing which consists of a coparcenary interest in the joint family property of a 35

Hindu family governed by the *Mitakshara*, *Marumakkattayam* or *Aliyasantana* law, also the interests in the joint family property of all the lineal descendants of the deceased member;

5 shall be aggregated so as to form one estate and estate duty shall be levied thereon at the rate or rates applicable in respect of the principal value thereof.

(2) Where any such estate as is referred to in sub-section (1) includes any property exempt from estate duty, the estate
10 duty leviable on the property not so exempt shall be an amount bearing to the total amount of duty which would have been payable on the whole estate had no part of it been so exempt, the same proportion as the value of the property not so exempt bears to the value of the whole estate.

15 *Explanation.*—For the purposes of this sub-section, “property exempt from estate duty” means any property—

(i) which is exempt from estate duty under section 33;

(ii) any agricultural land situate in any State not specified in the First Schedule;

20 (iii) the interests of all coparceners other than the deceased in the joint family property of a Hindu family governed by the *Mitakshara*, *Marumakkattayam* or *Aliyasantana* law.

(3) Notwithstanding anything contained in sub-section (1)
5 or sub-section (2), any property passing in which the deceased never had an interest, not being a right or debt or benefit that is treated as property by virtue of the *Explanations* to clause (15) of section 2, shall not be aggregated with any property, but shall be an estate by itself, and the estate duty shall be
30 levied at the rate or rates applicable in respect of the principal value thereof.

(4) Every estate shall include all income accrued upon the property included therein down to and outstanding at the date of the death of the deceased.

35 (5) For the purposes of this section, no property shall be aggregated more than once nor shall estate duty in respect thereof be levied more than once on the same death.”.

Amendment
of section
35.

18. In section 35 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The rates of estate duty shall be as mentioned in the Second Schedule.”;

5

(b) sub-section (2) shall be omitted.

Amendment
of section
47.

19. In section 47 of the principal Act, for the words “out of the territories to which this Act extends” and the words “the said territories” wherever they occur, the words “out of India” and “India” shall respectively be substituted.

10

Amendment
of section
48.

20. In section 48 of the principal Act, for the words “out of the territories to which this Act extends”, the words “out of India” shall be substituted.

Amendment
of section
50.

21. In section 50 of the principal Act, for the words “an amount which is equal to”, the words “an amount which is equal to one-half of” shall be substituted.

15

Insertion
of new sec-
tion 50A.

22. In Part VI, after section 50 of the principal Act, the following section shall be inserted, namely:—

Relief from
estate duty
where gift-
tax has
been paid.

“50A. Where tax has been paid under the Gift-tax Act, 1958, in respect of a gift of any property and the property is also included in the estate of the donor as property passing under this Act, then, notwithstanding anything contained in this Act, no duty shall be levied under this Act on any such property.”

20

Amendment
of section
53.

23. In section 53 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

25

“(3) Every person accountable for estate duty under this section shall, within six months of the death of the deceased, deliver to the Controller an account in the prescribed form and verified in the prescribed manner of all the properties in respect of which estate duty is payable:

30

Provided that the Controller may extend the period of six months aforesaid on such terms which may include payment of interest as may be prescribed.”.

24. For sections 56, 57, 58, 59, 60, 61, 62, 63, 64 and 65 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 56 to 65.

"56. (1) In all cases in which a grant of representation is applied for—

Grant of representation, etc., not to be made unless particulars are furnished to the Controller.

5 (a) the executor of the deceased shall, to the best of his knowledge and belief, specify in an appropriate account annexed to the affidavit of valuation filed in court under section 19-I of the Court-fees Act, 1870, all the property in respect of which estate duty is payable upon the death of the deceased and shall deliver a copy of the affidavit with the account to the Controller, and

7 of 1870.

10 (b) no order entitling the applicant to the grant of representation shall be made upon his application until he has delivered the account prescribed in clause (a) and has produced a certificate from the Controller under sub-section (2) of section 57 or section 67 that the estate duty payable in respect of the property included in the account has been or will be paid, or that none is due, as the case may be.

15 (2) In all cases in which a grant of a succession certificate is applied for, a copy of the application shall be furnished by the applicant to the Controller and no order entitling the applicant to the grant of such a certificate shall be made upon his application until he has produced a certificate from the Controller under sub-section (2) of section 57 or section 67 that the estate duty payable in respect of the property mentioned in the application has been or will be paid, or that none is due, as the case may be.

20 57. (1) Estate Duty shall be due from the date of the death of the deceased, and the Controller may, at any time after the receipt of account delivered under section 53 or section 56, proceed to make in a summary manner a provisional assessment of the estate duty payable by the person delivering the account on the basis of the account so delivered.

Power to make provisional assessment in advance of regular assessment.

25 (2) Upon delivery of the account under section 53 or section 35 56, the person delivering it shall pay to the Controller, or furnish security to the satisfaction of the Controller for the payment of, the estate duty, if any, payable on the provisional assessment made under subsection (1), and the Controller shall thereupon grant him a certificate that such duty has been or will be paid or that none is due, as the case may be, in respect of the property mentioned in the certificate.

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(3) After regular assessment has been made under section 58 any amount paid towards the provisional assessment made under sub-section (1) shall be deemed to have been paid towards the regular assessment.

No appeal shall lie against a provisional assessment made under sub-section (1), but nothing done or suffered by reason or in consequence of any such provisional assessment shall prejudice the determination on the merits of any issue which may arise in the course of the regular assessment under section 58.

Assessment.

58. (1) If the Controller is satisfied without requiring the presence of the person accountable that an account delivered under section 53 or section 56 is correct and complete, he shall assess the principal value of the estate of the deceased, and shall determine the amount payable as estate duty.

(2) If the Controller is not so satisfied, he shall serve a notice on the person accountable, either to attend in person at his office on a date to be specified in the notice, or to produce, or cause to be produced on that date, any evidence on which the person accountable may rely in support of his account.

(3) The Controller, after hearing such evidence as the person accountable may produce and such other evidence as he may require on any specified points, shall, by order in writing, assess the principal value of the estate of the deceased and determine the amount payable as estate duty.

(4) In any case where no account has been delivered as required by section 53 or section 56, or the person accountable fails to comply with the terms of the notice served under sub-section (2), the Controller shall make the assessment to the best of his judgment and determine the amount payable as estate duty.

Property
escaping as-
sessment.

59. If the Controller,—

(a) has reason to believe that by reason of the omission or failure on the part of the person accountable to submit an account of the estate of the deceased under section 53 or section 56 or to disclose fully and truly all material facts necessary for assessment, any property chargeable to estate duty has escaped assessment by reason of under-valuation of the property included in the account or of omission to include therein any property which ought to have been included or of assessment at too low a rate or otherwise, or

(b) has, in consequence of any information in his possession, reason to believe notwithstanding that there has not been such omission or failure as is referred to in clause (a) that any property chargeable to estate duty has escaped assessment, whether by reason of undervaluation of the property included in the account or of omission to include therein any property which ought to have been included, or of assessment at too low a rate or otherwise,

he may at any time require the person accountable to submit an account as required under section 53 and may proceed to assess or re-assess such property as if the provisions of section 58 applied thereto.

60. (1) If the Controller, the Appellate Controller or the Appellate Tribunal, in the course of any proceedings under this Act, is satisfied that any person—

Penalty for concealment.

(a) has without reasonable cause failed to furnish the account of the property of the deceased which he is required to furnish under section 53, section 55, section 56 or section 59 or has without reasonable cause failed to furnish it within the time allowed and in the manner required; or

(b) has without reasonable cause failed to comply with a notice under sub-section (2) of section 58; or

(c) has concealed the particulars of the property of the deceased or deliberately furnished inaccurate particulars thereof; or

(d) being a company referred to in section 20A, fails without reasonable cause, to pay the amount of estate duty due from the company under that section within the time specified in this behalf,

he or it may, by order in writing, direct that—

such person shall pay by way of penalty—

(i) in the case referred to in clause (a) or clause (d), in addition to the amount of the estate duty payable by him, a sum of rupees one thousand or a sum equal to double the amount of such duty, whichever is greater and

(ii) in the case referred to in clause (b) or clause (c), in addition to the amount of estate duty payable by him, a sum equal to double the amount of the estate

duty, if any, which would have been avoided if the principal value shown in the account of such person had been accepted as correct.

(2) No order shall be made under sub-section (1) unless the person concerned has been given a reasonable opportunity of 5
been accepted as correct.

Rectification
of mistakes.

61. At any time within five years from the date of any order passed by him or it, the Controller, the Appellate Controller, or the Appellate Tribunal may, on his or its own motion rectify any mistake apparent from the record and shall, within a like period 10 rectify any such mistake which has been brought to the notice of the Controller, the Appellate Controller or the Appellate Tribunal, as the case may be, by the person accountable:

Provided that no such rectification shall be made which has the effect of enhancing the estate duty payable unless the person 15 accountable has been given a reasonable opportunity of being heard in the matter.

Appeal
against
orders of
Controller.

62 (1) Any person—

(a) objecting—

(i) to any valuation made by the Controller, or 20

(ii) to any order made by the Controller determining the estate duty payable under section 58 or section 59, or

(iii) to any penalty levied by the Controller under section 60 or section 84, or 25

(b) denying his liability to the amount of estate duty payable in respect of any property,

may, within thirty days of the date of the receipt of the notice of demand under section 73, appeal to the Appellate Controller in the prescribed form which shall be verified in the prescribed 30 manner.

(2) The Appellate Controller may admit an appeal after the expiry of the thirty days referred to in sub-section (1) if he is satisfied that there was sufficient cause for not presenting it within that period. 35

(3) The Appellate Controller shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing.

(4) The Appellate Controller may—

(a) at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal;

5 (b) before disposing of an appeal, make such further inquiry as he thinks fit or cause further inquiry to be made by the Controller.

(5) In disposing of an appeal, the Appellate Controller may pass such order as he thinks fit which may include an order
10 enhancing the estate duty or penalty:

Provided that no order enhancing the estate duty payable or penalty shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

15 (6) The Appellate Controller shall, on the conclusion of the appeal, communicate the order passed by him to the appellant and to the Controller.

20 63. (1) Any person accountable objecting to any order passed by an Appellate Controller under section 62, may appeal to the Appellate Tribunal within sixty days of the date on which he is served with notice of such order.

Appeal to the Appellate Tribunal from the order of the Appellate Controller.

(2) The Controller may, if he is not satisfied as to the correctness of any order passed by the Appellate Controller under section 62, appeal to the Appellate Tribunal against such order and
25 such appeal may be made at any time before the expiry of sixty days of the date on which the order is communicated to the Controller.

(3) The Tribunal may admit an appeal after the expiry of the sixty days referred to in sub-sections (1) and (2) if it is
30 satisfied that there was sufficient cause for not presenting it within that period.

(4) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, except in the case of an appeal under sub-section (2),
35 be accompanied by a fee of rupees one hundred.

(5) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such order thereon

as it thinks fit, and any such orders may include an order enhancing the estate duty payable or penalty:

Provided that no order enhancing the estate duty payable or penalty shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(6) Where the appellant objects to the valuation of any property, the Appellate Tribunal may, and if the appellant so requires, shall refer the question of disputed value to the arbitration of two valuers, one of whom shall be nominated by the appellant and the other by the respondent, and the Tribunal shall, so far as that question is concerned, pass its orders under sub-section (5) conformably to the decision of the valuers:

Provided that if there is a difference of opinion between the two valuers, the matter shall be referred to a third valuer nominated by agreement, or failing agreement, by the Appellate Tribunal, and the decision of that valuer on the question of valuation shall be final.

(7) The costs of any arbitration proceeding under sub-section (6) shall be borne by the Central Government or the person accountable, as the case may be, at whose instance the question was referred to the valuers:

Provided that where the person accountable has been wholly or partially successful in any reference made at his instance, the extent to which the costs shall be borne by him shall be at the discretion of the Appellate Tribunal.

(8) The valuers may, in disposing of any matter referred to them for arbitration under sub-section (6), hold or cause to be held such inquiry as they think fit, and after giving the appellant and the respondent an opportunity of being heard, pass such orders thereon as they think fit and shall send a copy of such order to the Appellate Tribunal.

(9) A copy of every order passed by the Appellate Tribunal under this section shall be forwarded to the person accountable and to the Controller

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(10) Save as provided in section 64 any order passed by the Appellate Tribunal on appeal shall be final.

(11) The provisions of sub-sections (5), (7) and (8) of section 5A of the Indian Income-tax Act, 1922, shall apply to the Appellate Tribunal in the discharge of its functions under this Act as

11 of 1922

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they apply to it in the discharge of its functions under that Act.

64. (1) Within ninety days of the date upon which he is served with an order under section 63, the person accountable or the Controller may present an application in the prescribed form and, where the application is by the person accountable, accompanied by a fee of one hundred rupees to the Appellate Tribunal requiring the Appellate Tribunal to refer to the High Court any question of law arising out of such order, and the Appellate Tribunal shall, if in its opinion a question of law arises out of such order, state the case for the opinion of the High Court.

Reference
to the High
Court.

(2) An application under sub-section (1) may be admitted after the expiry of the period of ninety days aforesaid if the Appellate Tribunal is satisfied that there was sufficient cause for not presenting it within the said period.

(3) If, on an application made under sub-section (1), the Appellate Tribunal,—

(a) refuses to state a case on the ground that no question of law arises; or

(b) rejects it on the ground that it is time-barred;

the applicant may, within three months from the date on which he is served with a notice of refusal or rejection, as the case may be, apply to the High Court, and the High Court may, if it is not satisfied with the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case to the High Court, and on receipt of such requisition the Appellate Tribunal shall state the case:

Provided that, if in any case where the Appellate Tribunal has been required by a person accountable to state a case the Appellate Tribunal refuses to do so on the ground that no question of law arises, the person accountable may, within thirty days from the date on which he receives notice of refusal to state the case, withdraw the application, and if he does so, the fee paid by him under sub-section (1) shall be refunded to him.

(4) The statement to the High Court shall set forth the facts, the determination of the Appellate Tribunal and the question of law which arises out of the case.

(5) If the High Court is not satisfied that the case as stated is sufficient to enable it to determine the question of law raised thereby, it may require the Appellate Tribunal to make such modifications therein as it may direct.

(6) The High Court, upon hearing any such case, shall decide the question of law raised thereby, and in doing so, may, if it thinks fit, alter the form of the question of law and shall deliver judgment thereon containing the ground on which such decision is founded and shall send a copy of the judgment under the seal of the Court and the signature of the Registrar to the Appellate Tribunal and the Appellate Tribunal shall pass such orders as are necessary to dispose of the case conformably to such judgment. 5

(7) Where the amount of any assessment is reduced as a result of any reference to the High Court, the amount, if any, over-paid as estate duty shall be refunded with such interest as the Controller may allow, unless the High Court, on intimation being given by the Controller within thirty days of the receipt of the result of such reference that he intends to ask for leave to appeal to the Supreme Court, makes an order authorising the Controller to postpone payment of such refund until the disposal of the appeal in the Supreme Court. 15

(8) The costs of any reference to the High Court shall be in the discretion of the High Court. 20

(9) Section 5 of the Indian Limitation Act, 1908, shall apply to an application to the High Court under this section. 9 of 1908.

(10) When a case has been stated to the High Court under this section, it shall be heard by a Bench of not less than two Judges of the High Court and shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges: 25

Provided that where there is no such majority, the Judges shall state the point of law upon which they differ, and the case shall then be heard upon that point only by one or more of the other Judges of the High Court, and such point shall be decided according to the opinion of the majority of the Judges who have heard the case, including those who first heard it. 30

Appeal to
the Supreme
Court.

65. (1) An appeal shall lie to the Supreme Court from any judgment of the High Court delivered on a case stated under section 64 in any case which the High Court certifies as a fit case for appeal to the Supreme Court. 35

(2) Where the judgment of the High Court is varied or reversed on appeal under this section, effect shall be given to the order of the Supreme Court in the manner provided in sub-section (6) of section 64. 40

(3) The High Court may, on application made to it for the execution of any order of the Supreme Court in respect of any costs awarded by it, transmit the order for execution to any court subordinate to the High Court.”.

- 5 25. For section 67 of the principal Act the following section shall be substituted, namely:—

Substitution of new section for section 67.

“67. Where the amount of estate duty determined by the Controller as payable on an assessment made under section 58 has been paid by the person accountable, the Controller shall, on application by that person, grant to him a certificate to that effect.”.

Certificate of payment of estate duty.

26. In section 70 of the principal Act, in sub-section (2), for the words “eight” and “sixteen”, the words “three” and “six” shall respectively be substituted.

Amendment of section 70.

- 15 27. For section 73 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for section 73.

“73. (1) When any estate duty, penalty or interest is due in consequence of any order passed under this Act, the Controller shall serve upon the person accountable or other person liable to pay such duty, penalty or interest a notice of demand in the prescribed form specifying the sum so payable and the time within which it shall be payable.

Notice of demand and recovery of duty, penalty, etc.

(2) Any amount specified as payable in a notice of demand issued under sub-section (1) shall be paid within the time, at the place and to the person mentioned in the notice, or if no time is so mentioned, then on or before the first day of the second month following the date of service of the notice and any person accountable failing so to pay shall be deemed to be in default.

(3) Where a person accountable has been assessed in respect of assets located in a country outside India, the laws of which prohibit or restrict the remittance of money to India, the Controller shall not treat the person accountable as in default in respect of that part of the estate duty which is attributable to the assets in that country, and shall continue to treat the person accountable as not in default in respect of that part of the duty until the prohibition or restriction of remittance is removed.

(4) Notwithstanding anything contained in this section, where the person accountable has presented an appeal under section 62 the Controller may in his discretion treat the person accountable as not being in default as long as such appeal has not been disposed of.

5

(5) The provisions of sub-sections (1), (1A), (2), (3), (4), (5), (5A), (6) and (7) of section 46 and section 47 of the Indian Income-tax Act, 1922, shall apply as if the said provisions were provisions of this Act and referred to estate duty (including estate duty provisionally assessed) and sums imposed by way of penalty or interest under this Act instead of to income-tax and sums imposed by way of penalty or interest under that Act and to Controller of Estate Duty instead of to Income-tax Officer.

11 of 1922.

Limitation
for com-
mencing
proceedings
for assess-
ment or re-
assessment.

73A. No proceedings for the levy of any estate duty under this Act shall be commenced—

15

(a) in the case of a first assessment, after the expiration of five years from the date of death of the deceased in respect of whose property estate duty became payable; and

(b) in the case of a re-assessment, after the expiration of three years from the date of assessment of such property to estate duty under this Act.”

20

Amendment
of section
83.

28. In section 83 of the principal Act, for clause (b) of the Explanation, the following clause shall be substituted, namely:—

“(b) “legal practitioner” means an advocate, vakil or attorney of any High Court and includes a pleader in practice.”

25

Substitution
of new sec-
tion for
Section 84.

29. For section 84 of the principal Act, the following section shall be substituted, namely:—

Companies
to furnish
particulars
of deceased
persons to
the Con-
troller.

“84. (1) Where a company within the meaning of the Companies Act, 1956, has knowledge through any of its principal officers of the death of any member of or debenture-holder in the company, it shall, within three months of receipt of intimation of the death, furnish to the Controller such particulars as may be prescribed in respect of the interest of the deceased in the company; and it shall not be lawful for the company to register the transfer of any shares or debentures standing in the name of the deceased unless the transferee has acquired such shares or debentures for valuable consideration or a certificate from the Controller is produced before the company to the effect that

30 1 of 1956.

35

the estate duty in respect of such shares or debentures has been paid or will be paid or that none is due, as the case may be.

(2) Where a corporation established by a Central, State or Provincial Act has knowledge through any of its principal officers of the death of any person who is a registered holder of stocks, shares or other securities in the corporation, it shall, within three months of the receipt of intimation of the death, furnish to the Controller such particulars as may be prescribed in respect of the interest of the deceased in the corporation.

(3) Any company or corporation which without reasonable cause fails to comply with the provisions of this section shall be liable to pay a penalty of rupees one thousand."

30. In the principal Act, for the Second Schedule, the following Schedule shall be substituted, namely:—

Amendment
of the
Second
Schedule.

"THE SECOND SCHEDULE

(See sections 5, 20A and 35)

RATES OF ESTATE DUTY

PART I

In the case of any property which passes or is deemed to pass on the death of the deceased—

| | | Rate of duty |
|----|---|-----------------|
| | (1) On the first Rs. 50,000 of the principal value of the estate | Nil. |
| 25 | (2) On the next Rs. 50,000 of the principal value of the estate | 6 per cent. |
| | (3) On the next Rs. 50,000 of the principal value of the estate | 8 per cent. |
| 30 | (4) On the next Rs. 50,000 of the principal value of the estate | 10 per cent. |
| | (5) On the next Rs. 1,00,000 of the principal value of the estate | 12 per cent. |
| | (6) On the next Rs. 2,00,000 of the principal value of the estate | 15 per cent. |
| 35 | (7) On the next Rs. 5,00,000 of the principal value of the estate | 20 per cent. |
| | (8) On the next Rs. 10,00,000 of the principal value of the estate | 25 per cent. |
| | (9) On the next Rs. 10,00,000 of the principal value of the estate | 30 per cent. |
| 40 | (10) On the next Rs. 20,00,000 of the principal value of the estate | 35 per cent. |
| | (11) On the balance of the principal value of the estate | 40 per cent. |

PART II

In the case of shares or debentures held by the deceased in any such company as is referred to in section 20A—

Rate of duty

- 5 (1) If the principal value of the shares or debentures does not exceed Rs. 5,000 . *Nil.*
- (2) If the principal value of the shares or debentures exceeds Rs 5,000 . *7½ per cent.”.*

Savings.

31. Nothing contained in section 24 shall affect—

- 10 (a) any appeal pending before the Board in respect of any order made by the Controller before the commencement of this Act; or

- (b) any right or remedy by way of appeal which has accrued to any person in respect of any order made by the
15 Controller before such commencement;

and any such appeal may be disposed of and further proceedings taken in relation thereto and any such right or remedy may be enforced as if this Act had not been passed.

STATEMENT OF OBJECTS AND REASONS

The object of the Bill is to make certain amendments to the Estate Duty Act, 1953 (34 of 1953) in the light of the experience gained in the working of that Act since its coming into force on 15th October, 1953. The main amendments are intended to restrict some of the concessions which in the light of subsequent experience do not appear to be justified. Other amendments have been proposed to clarify assessment procedure, to facilitate collection of duty and also to provide for two appellate authorities. These latter amendments seek to bring the provisions of the Estate Duty Act, 1953, into line with those of the Indian Income-tax Act, 1922, the Wealth-tax Act, 1957, and the Expenditure-tax Act, 1957.

2. The notes on clauses explain the object underlying each of the important amendments proposed in the Bill.

NEW DELHI;

J. NEHRU.

The 28th February, 1958.

Notes on clauses

Clause 2 defines "Appellate Controller", "Appellate Tribunal", "person accountable" and "principal officer".

Clause 3 provides for inclusion of Appellate Controller of Estate Duty amongst the Estate Duty authorities and for his functions.

Clause 4 amends section 9 by increasing--(a) from two years to five years the period before death during which gifts *inter vivos* become liable to estate duty, as recommended by the Taxation Enquiry Commission, and (b) the extent of relief admissible in the case of gifts in consideration of marriage or of gifts which are part of the normal expenditure.

Clauses 5 to 7 are consequential upon the amendment proposed in clause 4.

Clause 8 contains a clarificatory amendment.

Clause 9 corrects a printing mistake.

Clause 10 deletes the *Explanation* to section 18 defining "principal officer" as it is no longer necessary in view of the amendment proposed in clause 2.

Clause 11 substitutes "India" for the words "territories to which the Act extends" as the Act now extends to the whole of India.

Clause 12 substantially reproduces the provisions of sub-section (1) of section 84 of the Act relating to companies incorporated outside India which carry on business in India and at the same time extends the liability for estate duty to debentures held by deceased persons in such companies.

Clause 13 makes amendments similar to those in clause 11.

Clause 14 contains an amendment similar to those in clauses 4(a), 5, 6 and 7. The proviso is omitted as being redundant.

Clause 15 contains a clarificatory amendment.

Clause 16 contains amendments which are either consequential upon the amendment proposed in clause 4(a), or are clarificatory.

Clause 17 redrafts the provisions relating to aggregation for determining the rate of estate duty so as to bring under aggregation the interests in the joint family property of the lineal descendants of the deceased member as well.

Clause 18 amends section 35 of the Act to do away with the provision for different exemption limits for the value of the deceased's interest in coparcenary property and for property of any other kind.

Clauses 19 and 20 contain amendments similar to those in clause 11.

Clause 21 seeks to restrict the relief admissible under section 50 of the Act to one half of the court-fees paid.

Clause 22 provides that no estate duty shall be paid in respect of property on which gift-tax has been levied.

Clause 23 amends section 53 to provide for the levy of interest on the estate duty payable for non-submission of accounts within the time allowed.

Clause 24 effects the following amendments:—

- (i) the new section 56 makes grant of succession certificate also conditional on production of Controller's certificate as to payment of estate duty;
- (ii) the new section 57 provides for "provisional assessment";
- (iii) the new section 58 provides for regular assessment;
- (iv) the new section 59 provides for assessment or re-assessment of property escaping assessment in the first instance;
- (v) the new section 60 incorporates the provisions of section 56 of the Act and also provides for penalty for concealment generally;
- (vi) the new section 61 corresponds to section 62 of the Act;
- (vii) the new section 62 amends section 63 of the Act and provides for appeals being filed in the first instance to the Appellate Controller of Estate Duty instead of to the Board as at present;
- (viii) the new section 63 provides for an appeal from the orders of the Appellate Controller to the Appellate Tribunal. The Appellate Tribunal is also empowered to refer questions of disputed valuation to the arbitration of valuers;

- (ix) the new section 64 redrafts section 64 of the Act and provides for the Appellate Tribunal to refer questions of law to the High Court at the instance of the person accountable or the Controller;

- (x) the new section 65 corresponds to section 65 of the Act.

Clause 25 amends section 67 so as to confine it to certificates of payment of estate duty.

Clause 26 reduces the number of permissible instalments for payment of estate duty in respect of immovable property from eight yearly or sixteen half-yearly instalments to three yearly or six half-yearly instalments.

Clause 27 makes the following amendments:—

- (1) the new section 73 incorporates the provisions of sub-section (2) of section 58 and also makes provisions for recovery of duty, penalty, etc., on lines similar to those in the Indian Income-tax Act, 1922;
- (2) the new section 73A reproduces section 59 of the Act with the modification that no assessment shall be commenced after the expiration of five years from the date of death of the deceased and no re-assessment proceedings shall be commenced after the expiry of three years from the completion of the original assessment.

Clause 28 contains a clarificatory amendment.

Clause 29 corresponds to sub-sections (2) and (3) of section 84 of the Act and also brings statutory corporations under its purview.

Clause 30 amends the Second Schedule providing for uniformity in the exemption limit and in the rates applicable in all cases whether the estate consists of coparcenary property or property of any other kind.

Clause 31 is a "saving" clause preserving the rights and remedies available to accountable persons under the existing provisions relating to appeals and the procedure regulating appeals.

FINANCIAL MEMORANDUM

The Bill seeks to amend the Estate Duty Act, 1953. The Estate Duty Act is being administered by the officers of the Income-tax Department and only a few officers are employed exclusively on estate duty assessments. With the reduction of the exemption limit, the assessment work is bound to increase and it will be necessary to employ larger number of officers exclusively on estate duty work. Appeals against assessments, which under the existing Act, have to be filed before the Central Board of Revenue will hereafter be heard by the Appellate Controllers. It is therefore necessary to appoint Appellate Controllers as well. The increase of personnel, along with incidental expenses of administration, including payment of remuneration of valuers is estimated to cost Rs. 5 lakhs.

I. VOLUME OF WORK

By the reduction of the exemption limit to rupees fifty thousand, it is estimated that there will roughly be another 10,000 estates in a year which would become liable to estate duty. More Assistant Controllers have therefore to be appointed. To deal with appellate work it is proposed to appoint only one Appellate Controller for the present. Additional staff will be appointed as and when it is found really necessary.

II. REQUIREMENT OF PERSONNEL AND FINANCE

| <i>A. Officers.</i> | No. | Cost Rs. |
|--|-----|--------------------------------------|
| No. of Appellate Controllers | 1 | $1 \times 2,000 \times 12 = 24,000$ |
| No. of Assistant Controllers taking the average disposal per Assistant Controller per annum at 500 | 20 | $20 \times 500 \times 12 = 1,20,000$ |
| <i>B. Staff.</i> | | |
| No. of Inspector | 10 | $10 \times 250 \times 12 = 30,000$ |
| No. of Head-clerks | 21 | $21 \times 250 \times 12 = 63,000$ |
| No. of U. D. Cs. | 42 | $42 \times 150 \times 12 = 75,600$ |
| No. of L. D. Cs. | 21 | $21 \times 120 \times 12 = 30,240$ |
| No. of stenographers | 1 | $1 \times 150 \times 12 = 1,800$ |
| No. of steno-typists | 21 | $21 \times 140 \times 12 = 35,280$ |
| | | <hr/> |
| | | say 3,79,920 |
| | | say 3,75,000 |

C. Incidental expenses.

Incidental expenses including
Class IV staff, contingencies
and payment of remunera-
tion to valuers estimated
at

1,25,000

TOTAL . . . 5,00,000

M. N. KAUL,
Secretary.

